

VIDEOTAPE DEPOSITION OF TONY J. VAN DER WIELEN 2/7/2012

<p style="text-align: center;">UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN</p> <hr/> <p>ALVIN BALDUS, CINDY BARBERA, CARLENE BECHEN, RONALD BIENDSEIL, RON BOONE, VERA BOONE, ELVIRA BUMPUS, EVANJELINA CLEEREMAN, SHEILA COCHRAN, LESLIE W. DAVIS III, BRETT ECKSTEIN, MAXINE HOUGH, CLARENCE JOHNSON, RICHARD KRESBACH, RICHARD LANGE, GLADYS MANZANET, ROCHELLE MOORE, AMY RISSEUW, JUDY ROBSON, GLORIA ROGERS, JEANNE SANCHEZ-BELL, CECELIA SCHLIEPP, and TRAVIS THYSSEN,</p> <p style="text-align: center;">Plaintiffs,</p> <p>TAMMY BALDWIN, GWENDOLYNNE MOORE, and RONALD KIND,</p> <p style="text-align: center;">Intervenor-Plaintiffs,</p> <p style="text-align: center;">v. File No. 11-CV-562</p> <p>Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, and TIMOTHY VOCKE,</p> <hr/> <p style="text-align: center;">[Caption Continued] <u>VIDEOTAPE DEPOSITION</u> <u>TONY J. VAN DER WIELEN</u></p> <p style="text-align: center;">Madison, Wisconsin February 7, 2012</p> <p style="text-align: center;">Sarah Finley Pelletter, RPR Registered Professional Reporter</p>	<p style="text-align: center;">1 <u>I N D E X</u></p> <p>2 <u>Witness</u> <u>Pages</u></p> <p>3 TONY J. VAN DER WIELEN</p> <p>4 Examination by Mr. Poland 7/110</p> <p>5 Examination by Ms. Lazar 102</p> <p>6</p> <p>7</p> <p>8</p> <p>9 <u>E X H I B I T S</u></p> <p>10 <u>No.</u> <u>Description</u> <u>Identified</u></p> <p>11 145 Subpoena to Testify at a Deposition 9 In a Civil Action</p> <p>12 146 Documents Produced in Response to 13 Subpoena Issued by Plaintiffs to 14 Tony J. Van Der Wielen Dated February 3rd, 2012 10</p> <p>15 147 Thumb drive containing documents in 16 response to subpoena 14</p> <p>17 148 Analysis of WISE-LR and Adjusted 18 GAB datasets 24</p> <p>19 149 Colored map 59</p> <p>20 150 Memorandum dated 1/3/12 to legislative 21 Leaders from Steve Miller and 22 Jeff Ylvisaker 70</p> <p>23 151 Government Accountability Board 24 Redistricting Meeting, Questions for 25 GAB Staff 72</p> <p>26 152 Memo dated 1/23/12 regarding GAB 27 memorandum of 1/13/12 79</p> <p>28</p> <p>29 (Continued)</p> <p>30</p> <p style="text-align: center;">3</p>
<p>and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,</p> <p style="text-align: center;">Defendants,</p> <p>F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI, PAUL D. RYAN, JR., REID J. RIBBLE, and SEAN P. DUFFY,</p> <p style="text-align: center;">Intervenor-Defendants.</p> <hr/> <p>VOCES DE LA FRONTERA, INC., RAMIRO VARA, OLGA VARA, JOSE PEREZ, and ERICA RAMIREZ,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v. Case No. 11-CV-1011 JPS-DPW-RMD</p> <p>Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, and TIMOTHY VOCKE, and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,</p> <p style="text-align: center;">Defendants.</p> <hr/>	<p style="text-align: center;">1 <u>E X H I B I T S</u></p> <p>2 <u>No.</u> <u>Description</u> <u>Identified</u></p> <p>3 153 Wisconsin Legislature Redistricting 4 Staff Working Group Meeting of January 14, 2011 90</p> <p>5 154 Defendants' Supplement to the Amended 6 Initial Rule 26(a) Disclosures 94</p> <p>7 155 Letter dated 12/6/11 to Ronald Keith 8 Gaddie from Tony J. Van Der Wielen 100</p> <p>9 156 Letter dated 12/6/11 to John Diez 10 from Tony J. Van Der Wielen 100</p> <p>11</p> <p>12 (The original exhibits were attached to the original 13 transcript and copies were provided to counsel)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 (The original deposition transcript was filed with Attorney Douglas M. Poland)</p>

VIDEOTAPE DEPOSITION OF TONY J. VAN DER WIELEN 2/7/2012

1 VIDEOTAPE DEPOSITION of TONY J. VAN DER WIELEN,
2 a witness of lawful age, taken on behalf of the
3 Plaintiffs, wherein Alvin Baldus, et al., are
4 Plaintiffs, and Members of the Wisconsin Government
5 Accountability Board, et al., are Defendants, pending
6 in the United States District Court for the
7 Eastern District of Wisconsin, pursuant to subpoena,
8 before Sarah Finley Pelletter, a Registered
9 Professional Reporter and Notary Public in and for
10 the State of Wisconsin, at the offices of
11 Godfrey & Kahn, S.C., Attorneys at Law, One East Main
12 Street, in the City of Madison, County of Dane, and
13 State of Wisconsin, on the 7th day of February 2012,
14 commencing at 9:16 in the forenoon.
15
16
17 A P P E A R A N C E S
18
19 DOUGLAS M. POLAND, Attorney,
20 for GODFREY & KAHN, S.C., Attorneys at Law,
21 One East Main Street, Suite 500, Madison,
22 Wisconsin 53703, appearing on behalf of
23 Plaintiffs Alvin Baldus, et al.
24
25 JACQUELINE BOYNTON, Attorney at Law,
2266 North Prospect Avenue, Suite 505,
Milwaukee, Wisconsin 53202, appearing by
telephone on behalf of Plaintiffs
Voces De La Frontera, Inc., et al.

5

1 A P P E A R A N C E S (Continued)
2
3 MARIA S. LAZAR, Assistant Attorney General,
4 for STATE OF WISCONSIN DEPARTMENT OF JUSTICE,
5 17 West Main Street, Madison, Wisconsin 53703,
6 appearing on behalf of the Defendants.
7
8 DANIEL KELLY, Attorney,
9 for REINHART BOERNER VAN DEUREN S.C.,
10 Attorneys at Law, 1000 North Water Street,
11 Suite 2100, Milwaukee, Wisconsin 53202,
12 appearing on behalf of the Defendants.
13
14 ERIC M. MCLEOD, Attorney,
15 for MICHAEL BEST & FRIEDRICH LLP, Attorneys at Law,
16 One South Pinckney Street, Suite 700, Madison,
17 Wisconsin 53703, appearing on behalf of the
18 Wisconsin State Senate by its Majority Leader
19 Scott Fitzgerald, the Wisconsin Assembly by its
20 Speaker Jeff Fitzgerald, and Tony J. Van Der
21 Wielen.
22
23 Also present: James Porter, CDVS
24 Campbell Legal Video Company
25 417 Heather Lane, Suite B
Fredonia, WI 53021
(262) 447-2199

6

1 TONY J. VAN DER WIELEN,
2 called as a witness, being first duly sworn,
3 testified on oath as follows:
4
5 EXAMINATION
6 By Mr. Poland:
7 Q Good morning, Mr. Van Der Wielen.
8 A Good morning.
9 Q Have you been deposed before?
10 A No.
11 Q You've never had your deposition taken before?
12 A No.
13 Q Let me give you a couple of what we'll just sort
14 of call ground rules. I'm Doug Poland. I
15 represent one of the groups of the plaintiffs in
16 this particular lawsuit. And we've asked you --
17 well, we've sent you a subpoena. I understand
18 you're here today pursuant to subpoena testifying.
19 The procedure of the deposition is that I will ask
20 you questions, and the court reporter, who is
21 sitting here to your left, will be taking down the
22 answers to the questions as well as my questions.
23 In addition, there is a videographer who is
24 videotaping the deposition.
25 The deposition could be used for a number of

7

1 different purposes, at trial, could be used at
2 trial, maybe not, we don't know at this point, but
3 I wanted to make sure that you understood that the
4 deposition is being transcribed. There also are
5 counsel, other lawyers for other parties who are
6 here today. They may have some objections to
7 questions that I ask. They're allowed to make
8 those objections, and then unless you're
9 instructed by an attorney not to answer a
10 question, you will need to answer the questions.
11 Do you understand that?
12 A Yep.
13 Q If I ask a question that you don't understand for
14 any reason at all, please feel free, I would
15 appreciate it if you would tell me that you don't
16 understand it, I can restate the question,
17 rephrase the question, so that we can get an
18 understanding about questions that I'm asking
19 before you give answers.
20 A Okay.
21 Q Are you represented by counsel here today?
22 A I believe so.
23 THE WITNESS: Am I?
24 A Yes.
25 Q Is Mr. McLeod acting as your counsel here today?

8

VIDEOTAPE DEPOSITION OF TONY J. VAN DER WIELEN 2/7/2012

1 A Yes.

2 Q Did Mr. McLeod give you a copy of a subpoena that

3 was sent for your deposition?

4 A Yes.

5 MR. POLAND: Let's mark this as

6 Exhibit No. 145.

7 (Exhibit No. 145 marked for

8 identification)

9 Q Before we get into the document, I should also

10 mention that if you need to take a break at any

11 time today, let me know. We can't take a break

12 while a question is pending, but at any other

13 time, if you need a break, just let me know.

14 A Okay. Thank you.

15 Q Mr. Van Der Wielen, I'm handing you a copy of a

16 document that's been marked as Exhibit No. 145.

17 Would you please identify that document for the

18 record?

19 A Subpoena given to me.

20 Q That's for your deposition here today, correct?

21 A Yep.

22 Q I'd like you to turn to the, it's the third to the

23 last page of Exhibit 145, and that is an

24 Exhibit A. Do you see that?

25 A Yes.

9

1 Q That identifies a number of categories of

2 documents that we have asked for you -- asked you

3 to look for, correct?

4 A Yep.

5 Q Have you done that; have you looked for the

6 documents identified in Exhibit A?

7 A Yes.

8 Q You've brought some documents with you today; am I

9 correct?

10 A Yep.

11 MR. POLAND: Let's go ahead and

12 mark this as Exhibit 146.

13 (Exhibit No. 146 marked for

14 identification)

15 Q Mr. Van Der Wielen, the court reporter has handed

16 you a document that we've marked as Exhibit

17 No. 146. Do you have that in front of you?

18 A Yes.

19 Q Would you identify that document please?

20 A It's a document I produced in response to the

21 subpoena.

22 Q So the document -- Exhibit 146 at the top states,

23 "Documents Produced in Response to Subpoena Issued

24 by Plaintiffs to Tony J. Van Der Wielen Dated

25 February 3rd, 2012." Do you see that?

10

1 A Yep.

2 Q Then it goes down, and it appears that you have

3 set out numbers, paragraphs numbers 1 through 12

4 that are in response to each of the paragraphs in

5 Exhibit A to the subpoena; is that correct?

6 A Yep.

7 Q Let's go ahead and run through those in just a

8 minute, but before I do, I want to make sure that

9 I understand your position and the agency or part

10 of the state government that you work for. Okay?

11 A Sure.

12 Q What is your -- you work for the LT -- Legislative

13 Technology Services Bureau, correct?

14 A Yes.

15 Q LTSB?

16 A Yes.

17 Q So if I use the term LTSB, we'll know that we're

18 referring to that particular bureau?

19 A Yep.

20 Q What does the LTSB do?

21 A We're the non-partisan technical service agency

22 for the Wisconsin legislature.

23 Q What kinds of things does the LTSB do for the

24 legislature; what's its role?

25 A We have several teams at LTSB. We have an

11

1 enterprise team, which takes care of all the

2 servers and networking for the Wisconsin

3 legislature. We have a technical support unit

4 that fields calls on computer-related issues. We

5 have an administration team that's internal for,

6 just internal administrative things for the

7 bureau. We have a Geographic Information System

8 team. That's a team I am the team manager of. We

9 provide demographic and geographic analysis for

10 the legislature, revise standard maps for

11 legislators and legislative staff and also the

12 general public, and we also are heavily involved

13 in redistricting. We are the liaison to the

14 U.S. Census Bureau for the redistricting data

15 program.

16 Q Would you describe what your title and your role

17 are with the LTSB?

18 A I'm the GIS manager.

19 Q What do you do as the GIS manager?

20 A I manage, currently, three geographers on the

21 team. And I also provide technical support,

22 again, geographic, demographic analysis for the

23 legislative agencies and their staff, also the

24 general public.

25 Q What kind of support do you provide for the

12

1 general public?
2 A We do standard map requests for them, so if
3 someone who would want a map of a legislative
4 district, we would be able to handle that request
5 on a cost-recovery basis, we do that. Answer
6 general questions.
7 Q And you testified that you are involved, you
8 personally and your GIS team are involved in the
9 redistricting effort, correct?
10 A Yes.
11 Q That's what we're going to be focusing on here
12 today, is the redistricting, that's the subject of
13 the lawsuit, and so that's what I really want to
14 focus on.
15 A Okay.
16 Q Do you understand that?
17 A Yep.
18 Q All right. Let's go back to Exhibit Nos. 145 and
19 146 then, so I can understand what you've brought
20 with you today.
21 A Sure.
22 Q So paragraph 1 of Exhibit A, and I won't read it
23 out in full, it's set forth in Deposition
24 Exhibit 145, but it makes a request for some
25 materials. And then you have provided us with an

13

1 answer in Exhibit 146, and you state in that
2 answer, "I have placed the base redistricting data
3 and reports given to all leadership offices in
4 this folder." Now, what folder are you referring
5 to there?
6 A On each one of the thumb drives, there's a folder
7 structure that has 1 through 12 that correspond to
8 the -- each request that's in the subpoena.
9 Q Let's go ahead, why don't you hand me a copy, or
10 one of those thumb drives. Let's have this marked
11 as an exhibit.
12 (Exhibit No. 147 marked for
13 identification)
14 Q Mr. Van Der Wielen, I'm handing you the thumb
15 drive, which we've marked as Exhibit No. 147.
16 That's a thumb drive that you've brought with you
17 today, correct?
18 A Yep.
19 Q And you've brought four copies of the same thumb
20 drive; is that correct?
21 A Yep.
22 Q So that Exhibit -- what we've marked as
23 Exhibit 147, the other three thumb drives that are
24 there in front of you are identical to
25 Exhibit 147?

14

1 A Yes.
2 Q Terrific. All right. Why don't you tell me then
3 what, as we run through these, this request here
4 and responses you've put down, what's on that
5 thumb drive.
6 A Okay. So for the first request, under data, there
7 are Statewide 10 folders, and the Statewide 10
8 folders contain the redistricting data. It's
9 Public Law 94-171 redistricting data, the
10 redistricting population totals. It also includes
11 TIGER 2010 geography. Those are merged together.
12 And then also the election data disaggregated to
13 the 2010 census collection blocks.
14 Q So all of these files that are identified in
15 Deposition Exhibit 146, in paragraph 1(a), those
16 are on a -- those are in a single folder that's
17 contained on the thumb drive?
18 A Yes. Keep going?
19 Q Yes, please do.
20 A Okay. Good. So under reports, I included all the
21 base reports that were included in the AutoBound
22 software. That was the software that was selected
23 for legislative redistricting.
24 Q When you say base reports, what are the base
25 reports?

15

1 A Base reports are just something that was included
2 with the software when it was purchased. But it
3 also, there are some custom reports, and I've
4 listed those here that we've created.
5 Q So the base reports were included in the AutoBound
6 software by the designer or the manufacturer of
7 that software?
8 A Right. Yes.
9 Q Very well.
10 A These custom reports were created specifically for
11 bill drafting. The assembly senate report just
12 lists the assembly and senate district with the
13 population totals. The assembly minimum and
14 maximum, those are the maximum -- the
15 population -- the district with the maximum
16 population and the minimum population. Same thing
17 for the senate.
18 Final table has some deviation numbers in it
19 that were used for the bill draft. The multilevel
20 is a listing of geography that is included with
21 each of the districts if districts are created in
22 the software. Congressional report is the same as
23 the assembly senate report except it's for
24 congressional districts. Minimum/maximum for
25 congressional districts, final table for congress,

16

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1 again, all these are for bill drafting purposes.
2 Q Who requested the custom template reports be built
3 by LTSB?
4 A It's not that they were requested, but it would
5 have been impossible to do a bill draft without
6 having those reports created. So we worked with
7 the Legislative Reference Bureau to get those
8 reports created and put in the system.
9 Q Are these the types of reports that typically are
10 created as part of the redistricting process?
11 A Pretty standard stuff.
12 Q You said it would have been impossible to draft
13 the redistricting bills without these particular
14 reports?
15 A Right. The reports are the interface to the bill
16 draft system.
17 Q Let me circle back to one item that I neglected to
18 ask you at the outset here. Under number 1,
19 paragraph 1 on Exhibit 146, you say the reports
20 given to all leadership offices?
21 A Yep.
22 Q When you say all leadership offices, who is
23 included there?
24 A Senator Miller, Representative Barca,
25 Senator Fitzgerald, Representative Fitzgerald.

17

1 Q So everything within category number 1 here on
2 Exhibit 146 was given to the four individuals that
3 you just mentioned?
4 A Yep.
5 Q Very well. All right. Can we jump back down then
6 to --
7 A Sure.
8 Q -- paragraph B, and I think we're on little Roman
9 number 3?
10 A Custom templates. Those template reports, we did
11 create a disenfranchisement report, and that
12 would -- we created a disenfranchisement report
13 that's included there.
14 Q What did the disenfranchisement report, what was
15 the purpose of that?
16 A Just to see if people had moved from, I believe it
17 was an odd number to an even number senate
18 district, to see if they would be missing an
19 election with any district that was created.
20 Q When you use the term moved, you don't mean
21 literally physically moved, correct?
22 A No.
23 Q You mean they would have been -- their new
24 district assignment would be different than their
25 old district assignment; is that fair?

18

1 A Correct. Yep.
2 Q All right. And then little Roman numeral 4?
3 A These are documents that are pretty dry to read,
4 but they are the data calculations for the
5 PL 94-171 data. The Census Bureau data comes with
6 256 fields times two, so 512 fields of data. The
7 Department of Justice, federal Department of
8 Justice gave us guidance on how to cram those all
9 into 18 categories. So these are the categories.
10 This document explains those categories and how
11 they were kind of collected.
12 The second one, DOJ guidance, that is the
13 actual guidance from the Department of Justice.
14 The PL 94-171 Tech Doc is 200 pages of census
15 jargon. TIGER shapefile Tech Doc too, it just
16 explains everything about TIGER. And then the
17 election data disaggregation document that is
18 there explains the process for disaggregating
19 election data with all the current datasets that
20 we have.
21 Q When did you provide all leadership offices with
22 all of these files that are identified in
23 paragraph number 1?
24 A Oh, that would have been sometime in March. It
25 would have been March, the third week in March

19

1 probably, somewhere around that date.
2 Q March 2011, correct?
3 A Yes. Yep.
4 Q All right. So all of those electronic files are
5 on folders contained on the thumb drive that we've
6 marked as Exhibit 147, correct?
7 A Yep.
8 Q Is there anything else on the thumb drive or --
9 that's not identified here on paragraph 1?
10 A I don't believe so.
11 Q So let's look at number 2. Again, I'm not going
12 to read these all into the record; they're in
13 Exhibit A. You've identified no documents
14 responsive to paragraph 2; is that correct?
15 A Right.
16 Q Number 3, your response that, you state you've
17 placed the Redistricting Staff Working Group
18 member list and meeting notes for the
19 January 11, 2011 meeting in the RSWG folder?
20 A Yes.
21 Q So is that a -- that's another folder then that's
22 on the flash drive?
23 A Yep.
24 Q So there are a few other categories we'll see as
25 we go through here that are actually on the flash

20

1 drive or the thumb drive?
 2 A Well, it's, so in folder number 2 -- or folder
 3 number 3, you'll see an RSWG folder.
 4 Q All right.
 5 A When you plug in the flash drive, you'll see one
 6 folder called deposition. When you open that up,
 7 there will be 12 folders. When you go to number
 8 3 --
 9 Q Got it.
 10 A -- you'll see that there's two folders in there;
 11 one is RSWG, and the other one is training.
 12 Q Got it. All right. So there is a specific folder
 13 in response to each numbered paragraph?
 14 A Yep.
 15 Q Perfect. Very organized. Thank you. Number 4,
 16 you have nothing in response to that request,
 17 correct?
 18 A Yeah, nothing.
 19 Q Number 5, it would be coextensive with the first
 20 request?
 21 A I believe so. I mean, it's.
 22 Q All right. Number 6 -- and all we can do is ask
 23 for documents that are within your possession,
 24 custody or control.
 25 A Okay.

21

1 Q So if there's something that exists outside of
 2 your possession, custody and control that you
 3 don't know about, I'm not asking you to speculate
 4 what else might be out there, you're not
 5 responsible for that, it's just what's within your
 6 own possession, custody and control, okay?
 7 A Okay.
 8 Q Number 6, you say you've placed a document with
 9 questions for the GAB, map generated by
 10 Rock County and any related e-mail into that
 11 folder?
 12 A Yes.
 13 Q Number 7, you state you've placed analysis of
 14 WISE-LR and adjusted GAB datasets (with maps), a
 15 draft document (GAB leadership) that explains
 16 datasets and the results of their analysis and any
 17 related e-mails?
 18 A Yes.
 19 Q That's all on the flash drive?
 20 A Yep.
 21 Q I'm going to try to do this, just asking you for
 22 the description, you say you've placed the
 23 analysis of WISE-LR. Is that a separate
 24 standalone document, analysis of WISE-LR?
 25 A Yes.

22

1 Q What is that analysis?
 2 A So we were asked to perform an analysis on the
 3 differing datasets. We collect WISE-LR data or
 4 census-related data from local officials. We
 5 tried to help them with the local redistricting
 6 process as much as we could to get the ward
 7 information back. The Government Accountability
 8 Board had been collecting data from local
 9 officials that was different. So during a meeting
 10 they asked us if we could perform an analysis on
 11 the data to see if there was -- to note the
 12 differences in the datasets.
 13 Q There are some documents --
 14 A That's what we did.
 15 Q There were some documents that were produced to us
 16 last week by the defendants in this case. The
 17 defendants is actually the individual members of
 18 the Government Accountability Board, in their
 19 official capacities. There were a few documents
 20 that were within that production. I'm going to
 21 show you this document, ask you if you can
 22 identify it. If you can, then we'll mark it as an
 23 exhibit and I'll ask you about it, but let me
 24 first, just let the record reflect that I'm
 25 handing the witness a copy of a document that has

23

1 a GAB Bates number on it I think begins document
 2 number 13, page 13. No, make that page 15. Is
 3 that the WISE-LR document you were talking about,
 4 the analysis document?
 5 A Yes and no.
 6 Q Okay.
 7 A So.
 8 Q Let's go ahead and mark it then. I do have
 9 copies. I've got a clean copy that we'll mark as
 10 an exhibit. The number on the bottom is?
 11 A 15.
 12 Q Mr. Van Der Wielen, just so that you know what I'm
 13 talking about, we have numbers that -- lawyers
 14 have numbers that we put on the bottom of
 15 documents when we produce them to each other and
 16 give them to each other. It's just called a Bates
 17 number, for reasons I won't get into.
 18 (Exhibit No. 148 marked for
 19 identification)
 20 Q And so that's what I'm referring to when I refer
 21 to Bates numbers.
 22 A Okay.
 23 Q So I'm handing you a copy of that exhibit. I'll
 24 take my marked copy back, and I'll get counsel
 25 their copies as well.

24

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1 Mr. Van Der Wielen, we've handed you a copy
2 of a document that has been marked as Exhibit
3 No. 148. Do you have that in front of you?
4 A Yep.
5 Q Have you seen Exhibit 148 before?
6 A I've seen the first two pages, and I've seen the
7 last several pages here, but we did not create the
8 last -- pages 3 through 9.
9 Q All right. Did you create pages, and by we, or
10 you, I'm asking about LTSB, did you create the
11 first two pages of Exhibit 148?
12 A Yes.
13 Q Is this the analysis of WISE-LR and adjusted GAB
14 datasets to which you were referring in your
15 response paragraph number 7 --
16 A Yes.
17 Q -- to the subpoena?
18 A Yep.
19 Q Would you identify for me then, or if you can,
20 summarize the first two pages of Exhibit 148?
21 A Sure. So again, we were asked to do an analysis
22 of the WISE-LR dataset or the census-based dataset
23 that local officials had created. They had used
24 WISE-LR to create their municipal ward data. The
25 Government Accountability had also been collecting

25

1 some other datasets from local officials, and
2 again, they asked us to look at the two datasets
3 and determine if there was any difference between
4 the two. So as part of the analysis, we took the
5 WISE-LR dataset and the files that the Government
6 Accountability Board gave us, and the goal was to
7 find the difference or the areas where the data
8 would intersect.
9 Q If I could stop you there.
10 A Sure.
11 Q I want to back up one second here to make sure
12 that I understand everything. You mentioned the
13 WISE-LR dataset, correct?
14 A Yes.
15 Q What is the WISE-LR dataset?
16 A So WISE-LR -- to back up a little bit. LTSB, with
17 the University of Wisconsin and the LRB, created
18 something called WISE-LR. It was an application,
19 an online application that took all the census
20 geography, census blocks, along with the Public
21 Law 94-171 data, and merged it into an online
22 application. So then we contacted all the 72
23 municipal clerks of the state and had them specify
24 GIS contact within each county, and we issued
25 logins to each one of them. So for each county,

26

1 each county had a login and a password. When you
2 logged into the application, you were able to draw
3 a supervisory district off of U.S. census blocks,
4 an alderman district, and also municipal wards.
5 Q When was WISE-LR created?
6 A WISE-LR was, it was a project that started about
7 two years ago. So we had a pilot program for our
8 local officials to use, and then the official
9 release was sometime the third week of March. It
10 took about a year to create after the pilot took
11 place.
12 Q That was for the purpose of creating wards; is
13 that correct?
14 A Yep. It was for the purpose of helping local
15 officials meet their statutory requirements to
16 perform local redistricting and all facets of it,
17 including municipal wards.
18 Q Wards are the starting point because they're the
19 building blocks for the other districts in
20 Wisconsin; is that correct?
21 A During the beginning of the project, the statutes
22 basically said that we need to collect wards to
23 build legislative districts. I'm not sure, I may
24 have misstated that or not, I'm not -- the LRB
25 would actually be able to clarify that probably a

27

1 little bit more. But yes, to perform local
2 redistricting, to get the ward information, and
3 the ward information typically would have been
4 used to create legislative districts.
5 Q So there is a WISE-LR database then that's created
6 by this process of the municipalities going
7 through?
8 A It is the exact same dataset that is located in
9 the Statewide 10 folder. So it's all the same
10 data.
11 Q Statewide 10 folder?
12 A Yep.
13 Q All right. Got it. So then, I believe your
14 testimony was that you were asked to analyze the
15 WISE-LR dataset and then compare that to another
16 dataset that you received from, did you say from
17 GAB?
18 A Yep. So all 72 counties use the application, the
19 WISE-LR application to build municipal wards. So
20 we had a statewide dataset of municipal wards.
21 GAB had collected I believe it was an additional
22 19 counties of data that was different than the
23 data submitted to the legislature, so they wanted
24 us to take a look at the two datasets and see what
25 the difference between the two was.

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1 Q Now, when was the WISE-LR dataset complete with
2 the information provided by the 72 counties?
3 A It's a moving target. So the -- we've had several
4 snapshots of data. All data was supposed to be
5 given to the legislature by September 19th, but
6 due to Act 39 and just changes to municipal lines,
7 we've been updating the data as things flow in to
8 us.
9 Q Why was the timing or the finality of WISE-LR
10 affected by Act 39?
11 A It wasn't per se. I mean, local -- as far as I
12 know, again, this would be something for the LRB
13 or a lawyer to interpret, but the local
14 redistricting in the state should have been
15 completed on September 19th, and then after that
16 date, if a municipal ward was intersected or
17 bisected by a congressional or legislative line,
18 Act 43 or Act 44, then the local municipality
19 would have to go back into WISE-LR or to use the
20 raw census data and split that ward based on that
21 assembly district line or congressional line.
22 And when I say split, I don't really mean
23 split, because the Act 43 and Act 44 data were
24 built on blocks. So they would actually be
25 splitting that ward based on a block.

29

1 Q When you say block, you mean census block,
2 correct?
3 A Census collection block, yep.
4 Q So, again, this is all predicate for what we're
5 going to get into later, and I want to make sure I
6 understand it. When the wards are created by the
7 local municipality or the county and put into a
8 WISE-LR -- put into the WISE-LR database, at that
9 point in time are those wards based on census
10 data?
11 A Yes.
12 Q Was Act 43 -- Act 43 and Act 44, were those based
13 on census data too?
14 A Yes.
15 Q So if they're both based on census data, then why
16 would a ward be split?
17 A Technically a ward wouldn't be split, but when you
18 have a municipality grouping census blocks
19 together, before the act is created, there's a
20 good possibility that one of their municipal wards
21 could have an assembly district line or a
22 congressional line running through it. But it
23 would be based on blocks. It would be having --
24 if you had a block on this side and a block on
25 this side, congressional line running through, if

30

1 a local municipality had grouped both of these
2 blocks into one ward, they would have to split
3 that block, or split the ward based on the two
4 blocks. So one block would be on this side, one
5 block would be on that side.
6 Q I see. So -- and this was my misunderstanding.
7 So what you're saying is that the wards can
8 consist of multiple census blocks?
9 A They do.
10 Q They consist -- in all situations, all
11 circumstances they consist of multiple?
12 A I would say primarily. I mean, it's a pretty good
13 bet. I can't say for sure. There may be a census
14 block out there that has 2,000 people in it and
15 they may have used it as a ward, but for the most
16 part, wards are grouping -- wards are groupings of
17 blocks.
18 Q So wards are groupings of blocks --
19 A Yes.
20 Q -- and then Act 43 and Act 44 follow the census
21 lines as well -- census block lines, I should say?
22 A Yes.
23 Q So if there were a -- if a boundary set by Act 43
24 or Act 44 bisected a ward, then what would happen
25 as a result of that? With respect to the

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1 datasets?
2 A The local municipality, if they were using
3 WISE-LR, they would log into WISE-LR. We had made
4 changes to the application so that they could look
5 at their municipal ward and see it with the
6 legislative line running through it, and they
7 could either assign a brand new ward number to it,
8 the last sequential number, or they could assign
9 part A and part B. That's basically it.
10 Q Have you been through redistricting in Wisconsin
11 previously?
12 A Yes.
13 Q What was the last time you went through -- well,
14 we know the last time was, if you were involved,
15 it would have been 2000, I assume, or 2001?
16 A Yep.
17 Q Was, after the 2000 decennial census, was that the
18 first redistricting in Wisconsin that you were
19 involved with?
20 A Yes.
21 Q Is this the same procedure that was followed after
22 the 2000 redistricting?
23 A Yes.
24 Q Acts 43 and 44 were passed on August 9, 2011,
25 correct?

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1 A If you say so. Yeah, I -- yes.

2 Q Is it your understanding they were passed before

3 the September deadline for municipalities to have

4 their wards completed?

5 A Yep.

6 Q Were any of the -- strike that question. You

7 mentioned before that the WISE-LR dataset is

8 still, it's still being updated; is that correct?

9 A Yep.

10 Q Why is it still being updated?

11 A There's approximately 50 wards in the state that

12 still need to be split. It's a horrible word in

13 this sense, but they need to be divided based on a

14 congressional or assembly line. Act 43 or Act 44

15 line.

16 Q So in other words, they are bisected by a

17 congressional or an assembly line and they need to

18 be reassigned to a new district; is that correct?

19 A They just -- well, you can't have a ward that is

20 intersected by a legislative line because you

21 can't have one ward voting for two assembly

22 districts or two congressional districts, so they

23 have to reassign the blocks underneath so that the

24 congressional line is -- so that everybody votes

25 in one district or the other.

33

1 Q And why is that process not complete yet?

2 A They have until May 15th of 2012, unless

3 legislation -- there was some word of legislation

4 moving that date up, but as far as I know, Act 39

5 gives them till May 15th of 2012 to actually do

6 that.

7 Q Is it fair to say that -- I should -- strike that.

8 My understanding is that there was a difference in

9 the way that the redistricting was done in 2011

10 versus 2001, in the sense that when Acts 43 and 44

11 were being created, when the maps were being

12 created for those, that the process was performed

13 using census blocks rather than wards. Is my

14 understanding incorrect?

15 A To my knowledge, the federal court drew their

16 districts based on the ward information.

17 Q But not even talking about the district courts,

18 just go back to 2001, when the process was done,

19 was performed, was it initially performed by the

20 legislature?

21 A It was initially -- well, the process started with

22 the legislature. It would have been the exact

23 same process. We would have received census data

24 sometime in March. We would have employed

25 redistricting workstations sometime around April

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1 to all four leaders of the legislature, with the

2 block data, and they would have been doing

3 whatever they do. And then when the ward data

4 came on board, when it was finished, then we would

5 have updated the datasets with the ward

6 information.

7 Q Looking back to 2001, do you know whether the

8 final statutes that actually put into place the

9 congressional and assembly district lines, was

10 that done before or after the process of creating

11 wards was completed?

12 A You know, I would -- I hate to speculate when I

13 talk about these type of things, especially here,

14 but I would say the congressional stuff had to be

15 done based on blocks because of the -- the

16 deviations were so low. So there's no way,

17 primarily, to get down to that deviation without

18 doing it based on census blocks. So I'm assuming

19 the majority of it was done prior to. I don't

20 remember the flow of how the -- how everything was

21 passed, but it was -- the congressional lines were

22 enacted by the legislature.

23 Q And the assembly lines would have been enacted by

24 the legislature too?

25 A No.

35

1 Q No? They were not -- the court made the decision

2 in 2001 before the assembly actually passed any

3 statute?

4 A No. The court came out with their plan in 2000 --

5 May of 2002. So the statutes would have been the

6 same when the legislature was drawing their

7 legislative districts. I guess, I don't know, if

8 you want to clarify that. I guess I'm a little

9 confused by the question.

10 Q Well, the question is, were the initial maps, and

11 this is, again, going back to 2001, were the maps

12 that were prepared initially for the purpose of

13 accomplishing assembly and congressional districts

14 in 2001, were those prepared using the same

15 process that was used in 2011?

16 MR. MCLEOD: I'm going to object to

17 the form of the question because I think it's

18 vague and ambiguous. If you can answer it,

19 please do so.

20 A Yeah, I guess, I -- all the data is the same.

21 It's all based on census blocks. It's all based

22 on -- you know, ward data is a collection of

23 census blocks, so it would have been -- they would

24 have used wards to start the redistricting

25 process, but to my knowledge, I don't even

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1 remember maps coming out of the legislature based
 2 on that. If maps were built, they would have been
 3 built on census data, and the census data would
 4 have been blocks, wards created from WISE-LR, the
 5 first WISE-LR that we created.
 6 Q All right. What I'm really -- I'm sorry, I didn't
 7 mean to cut you off.
 8 A No, that's fine.
 9 Q What I'm trying to figure out was, had the ward
 10 process, the process of the municipalities
 11 creating the wards, going all the way through this
 12 September 19th date, had that played out in 2001
 13 before the time that the final plans were put into
 14 place?
 15 A Sure. Yes. I would think they would have been,
 16 but they would have had data all the way back to
 17 March to do whatever they wanted to do with until
 18 the ward lines came out, and then they may have
 19 adjusted any plans they were creating based on the
 20 wards that they had received from the WISE-LR
 21 dataset.
 22 Q You mentioned that you were asked to do an
 23 analysis or comparison of the WISE-LR and adjusted
 24 GAB datasets, correct?
 25 A Yes.

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1 Q So what is the adjusted GAB dataset that you were
 2 asked to compare or analyze in comparison to the
 3 WISE-LR dataset?
 4 A Well, to my knowledge, the GAB had asked for
 5 datasets from counties, and they had received 19
 6 county datasets. As you can see down below, that
 7 some of them only gave them municipal wards. Some
 8 gave them municipal lines. So we had to do quite
 9 a bit of cleanup of the data even to do the
 10 analysis that we were talking about. But they
 11 would have asked for data from local officials
 12 that would have been similar, but probably a
 13 little bit more spatially accurate from local
 14 officials.
 15 Q The local official data would have been more
 16 spatially accurate?
 17 A It would have been, and there's a lot of factors
 18 that go into it. A lot of municipalities have a
 19 smaller geographic area that they're dealing with.
 20 A lot of times they have a little more money, a
 21 little bit more money that they can put into the
 22 system, so the data is a little bit more spatially
 23 accurate, yes.
 24 Q When did the GAB ask you to perform this analysis?
 25 A Sometime in November. I don't know the exact

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1 date. It would have been early to -- first or
 2 second week in November. It was before
 3 Thanksgiving.
 4 Q What was the output of the result of the analysis
 5 that you conducted?
 6 A So the analysis that we did was pretty
 7 straightforward. We just took a look at the two
 8 datasets, and we found the areas that were
 9 assigned to different municipalities, or basically
 10 a, we call them a zone of difference, for lack of
 11 a better term. The results -- what we did is we
 12 took the zones of difference or the areas of
 13 difference that were labeled a different
 14 municipality, and then we geocoded the voter
 15 registration -- not the voter registration system,
 16 but the voter file that we received from GAB as
 17 part of a separate project. We came up with
 18 3.9 million records, approximately, that were
 19 standardized and geocoded, and then we projected
 20 those, and then we overlaid those to find the
 21 potential voters who may be affected by these
 22 areas.
 23 Q So I'm going to back up one second here. So the
 24 WISE-LR dataset that's created, this is intended
 25 to be the dataset that identifies where every

39

1 voter in Wisconsin lives and the districts to
 2 which they're assigned; is that correct?
 3 MR. McLEOD: Object --
 4 A No.
 5 Q That's not correct?
 6 MR. McLEOD: Sorry. Object to
 7 form.
 8 Q How is my statement incorrect?
 9 A Municipal wards are created based on specific
 10 statutes that say they have to be of a certain
 11 population range. They're in no way meant to
 12 depict where people live or where they vote. It's
 13 just a collection of census blocks and population
 14 totals.
 15 Q So WISE-LR does not -- WISE-LR, that dataset does
 16 not attempt to assign any voters to any particular
 17 districts at all; is that correct?
 18 A It's used for legislative redistricting because
 19 the statutes say that we should use the census
 20 data, because it's the only data tied to census
 21 population.
 22 Q But WISE -- okay. So, but WISE-LR does not set
 23 out where people live or what districts they're
 24 assigned to?
 25 A It does not. No.

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1 Q All right. So --
 2 A Can I just -- WISE-LR is a free tool that we
 3 created at the legislature to help local officials
 4 perform their statutory duties. That's it. I
 5 mean, a lot of communities didn't have GIS ten
 6 years ago, and a lot of people didn't have the
 7 ability to even get these requests done. So we
 8 created the software so they could group census
 9 blocks together based on guidance from the
 10 Legislative Reference Bureau so they actually
 11 could perform county redistricting and then local
 12 redistricting and get the data back to us in time
 13 to actually have something to draw legislative
 14 districts on.
 15 Q So this just outlines, it just outlines the blocks
 16 or it's used to be able to develop the boundaries
 17 for the different districts?
 18 A It's not a required software by anybody to use.
 19 The counties basically were given an opportunity
 20 to use it, and a majority of them did.
 21 Q But some didn't. All right. So then the GAB
 22 dataset, how did it -- again, what are the
 23 discrepancies that exist between the GAB dataset,
 24 just broadly speaking, between the GAB dataset and
 25 the WISE-LR?

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1 A They are some differences in data. You can see
 2 the, where the census data may be referenced to a
 3 particular area, you can see that there may be a
 4 discrepancy between a boundary line. A lot of
 5 times you can see where the census actually tried
 6 to depict the line that was -- should have been
 7 used for a municipal line. It's just, the
 8 Census Bureau has a hard time with spatial
 9 accuracy because they have so much data. They're
 10 mapping everything in the United States down to a
 11 dirt road, and for Puerto Rico also. So they have
 12 a massive amount of data that they have to deal
 13 with, and it's time and money.
 14 So the spatial accuracy is, they tried -- you
 15 can tell in a lot of cases where they tried to
 16 follow the municipal line, but in some cases it
 17 was off a little bit. They're never meant to be
 18 lined up together. Census data should be living
 19 in census data world, and local data should be
 20 living in local data world.
 21 Q The GAB -- the GAB municipal lines, and I'm
 22 looking here at the, maybe it's best to look at
 23 reference to -- with reference to Exhibit 148.
 24 A Sure.
 25 Q Looking at the first paragraph. The -- did you

42

1 write this, by the way?
 2 A Yes.
 3 Q All right. So you state in the first paragraph
 4 *The goal of this analysis is to find the*
 5 *approximate number of active registered voters who*
 6 *are located in the difference between the 2011 --*
 7 *I'll just use the acronym there -- WISE-LR data*
 8 *and the adjusted county data that was submitted to*
 9 *the Government Accountability Board (GAB)?*
 10 A Yep.
 11 Q All right. So the goal is to find -- the goal is
 12 eventually to try to find active registered
 13 voters, correct, as you've identified in this
 14 paragraph here? Find or identify a number of
 15 active registered voters?
 16 A Yes. The goal of this document was not for the
 17 GAB. The only -- the goal of this document was
 18 for us to understand what the GAB was talking
 19 about, and if it was a big enough problem to
 20 inform legislative leadership because they had
 21 not. And that was the goal of this document.
 22 Q All right. So we've got -- we've established that
 23 under WISE-LR there are boundary lines that are
 24 established, right?
 25 A Yes.

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1 Q So we've got that. Now, you've got a reference
 2 here to adjusted county data that was submitted to
 3 the GAB?
 4 A Yes.
 5 Q All right. Why don't you describe that for me,
 6 please.
 7 A Okay. So when you create wards in WISE-LR, you're
 8 using census blocks. You get population totals
 9 from that. So local datasets and local GIS
 10 datasets are not tied to population totals at all,
 11 so they're just used for everything that a local
 12 municipality uses it for, to, you know, plow the
 13 streets and, you know, rescue and fire, whatever
 14 else they use their datasets for.
 15 So there is a level -- they have to take the
 16 census data, and they're going to have to
 17 basically interpret that and make it fit their
 18 datasets. It's a pretty basic thing to do in GIS,
 19 as far as technicians go. You just have to know
 20 your areas. So if there's an area bounded by
 21 Main Street and Elm Street and whatever street,
 22 you can basically take a look at the census data
 23 and you can figure that out using your own
 24 datasets.
 25 So that would have been what a county or a

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1 local municipality would have had to have done if
 2 the data didn't line up exactly. They would have
 3 had to use some -- a little bit of interpretation
 4 to fit the census data into their reality. And so
 5 when I say adjusted municipal data, they would
 6 have had to base their wards on some type of
 7 population total. The only population totals are
 8 given through the census. But then they have to
 9 adjust those municipal wards to fit their
 10 datasets. That's the only way that you can do it.
 11 So I'm assuming, because I don't work with
 12 the GAB, I don't know how they, you know, exactly
 13 how they procured the datasets, all I know is what
 14 I had, I'm assuming that's what the local
 15 officials had did and given the more spatially
 16 accurate data to GAB, and that was the dataset I
 17 was comparing, the data that was adjusted by the
 18 local municipality to fit census reality against
 19 the actual census data.
 20 Q And that's population data?
 21 A So the census data would have been the only ones
 22 that had population totals associated with it.
 23 Q The adjustments that are being made though, that
 24 you're being asked to look at, are these
 25 adjustments of boundary lines?

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1 A We would look at municipal boundary lines. We
 2 would not look at internal -- at the internal
 3 lines of a city for this analysis.
 4 Q So, but for this analysis -- here's the difficulty
 5 that I'm having here.
 6 A Sure.
 7 Q You mention -- you mention in this paragraph, you
 8 say number of active registered voters?
 9 A Uh-huh.
 10 Q So it looks to me like you're looking for people,
 11 numbers of people, not specific individual people,
 12 but numbers of people?
 13 A Well, yeah, it's the only thing to use. I mean,
 14 you can't use -- these differences are -- if you
 15 look at the areas or if you look at the maps that
 16 are contained in that folder, what ended up with
 17 this -- the end result of this analysis was a file
 18 of difference. So it was areas on a map that we
 19 shaded in green. Okay? You don't know what the
 20 underlying population is there. There's no way to
 21 know, because it would have split multiple census
 22 blocks. Census blocks have population contained
 23 within them, and if you split that block, there's
 24 no way to determine, or at least there's no way
 25 for me to determine population of those -- of the

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1 areas, you know, of the split blocks. So the only
 2 way to get a number to figure out how many voters
 3 potentially that this could affect was to use the
 4 geocoded voter file from the GAB, just to get a
 5 grasp on how big this problem was.
 6 Q All right. Again, I'm going to try to summarize
 7 here to see if I understand. You'll correct me if
 8 I'm not.
 9 A I'm trying to be as clear as I can.
 10 Q No, I understand. I understand. And I hope --
 11 I'm not trying to be frustrating, but --
 12 A Oh, no, absolutely. I've been answering these
 13 questions for a long time, so.
 14 Q All right. So my understanding is that you've got
 15 certain lines, certain boundary lines, ward lines,
 16 that come out of the WISE-LR process, correct?
 17 A Yes.
 18 Q Then those are adjusted or corrected in some way
 19 through the use of county data submitted to the
 20 GAB, correct?
 21 A Well, okay, so if I'm Dane County and I log into
 22 WISE-LR and I create a ward, and I have my
 23 population and my ward is bounded by streets, I
 24 have to somehow translate that into this other
 25 dataset I have, which is my local dataset, that

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1 I've been using for everything, and the two don't
 2 necessarily overlay perfectly. It's a common
 3 problem in GIS. So datasets were built in
 4 different coordinate systems, different areas, and
 5 with different specifications.
 6 So basically what the -- the county would
 7 have logged in, Dane County, per se, would have
 8 logged into WISE-LR, created their wards, but then
 9 they had to do some type of adjustment to that
 10 ward to fit it into their dataset. So after they
 11 created the ward in WISE-LR, they would have to
 12 have done some adjustment to that data to fit it
 13 into their dataset. After they did that
 14 adjustment in their dataset, to kind of translate
 15 what they did in WISE-LR over to their county
 16 dataset, they would have given that data to the
 17 GAB. So, and by just adjusting that data, you're
 18 going to come up with these different areas.
 19 So, one of the examples that I, I've heard
 20 about, I haven't actually seen, is that there is a
 21 road that follows Columbia County and Dane County,
 22 and the difference -- there's a difference
 23 spatially in the data so that it looks like, when
 24 the GAB is doing something, that voters are
 25 turning up in Columbia County, but they should be

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1 in Dane County. It's really not the case. It's
2 just a difference of where the Census Bureau
3 thought the county line should be and the
4 adjustment that had to happen with the local
5 dataset. They just don't line up together.
6 They're still the same line, but they shouldn't be
7 used together. They should be used in their own,
8 in their own world. So it's a different reality.
9 Q All right. And so the registered voters that
10 you're trying to identify --
11 A Uh-huh. Yes.
12 Q -- who are located in the difference --
13 A Yes. We were --
14 Q -- so what is that number referring to?
15 A Okay. So the only -- we couldn't do population,
16 so we wanted to see how many registered voters,
17 active registered voters, I've been told that's
18 the correct term to use, with the data we used, we
19 geocoded those people, found those areas of
20 difference in the two datasets, and then we
21 geocoded them, standardized the address and
22 geocoded them. We only used geocodes that were
23 matched down to an address level match. And then
24 we overlaid those and found, if you turn the page
25 to page 2, we found that in all the -- the 19

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1 counties of adjusted data compared to the 19
2 counties of WISE-LR data, that 4,204 of those
3 active registered voters fell into those
4 difference areas, and that would have been any
5 area of difference, no matter if it was a --
6 Wisconsin is built in, it's a township range
7 state, so it's built of basically six mile by six
8 mile squares.
9 Some of the differences that we were talking
10 about were actual gaps between like the township
11 and range. So you could tell where the census
12 created a square, but -- and the locals created a
13 square too, but their squares weren't exactly the
14 same. So there may have been a voter in there.
15 So the 4,204 voters, active registered voters,
16 those were the people that fell within those zones
17 of difference, all of the zones of difference.
18 When you start looking at the proximity to an
19 Act 43 line, the number goes down approximately to
20 a fourth of that number. 1,071 people were within
21 about 15 feet of an Act 43 assembly district
22 boundary. We use that number, it's pretty typical
23 number, because when you're using datasets that
24 aren't built off of the same base, you have to
25 calculate for some type of error. And that was

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1 the -- what we used.
2 And again, if you look at the Act 44 line, we
3 found approximately 66 voters that fell into those
4 areas of difference that were near a congressional
5 district line, an Act 44 line. Following both, an
6 Act 43 line and an Act 44 line, there were 43. So
7 these are all subsets of that 4,204.
8 Q This was the 19 counties, correct?
9 A 19 counties, yes.
10 Q This is as of which date?
11 A Oh, this would have been done in December. This
12 was an internal document that wasn't -- I mean, it
13 was shared with the GAB, but we never knew it
14 would have been shared globally. So there's no
15 date on this document, but it was done in, I
16 believe sometime in early December.
17 Q Have there been additional counties, do you know,
18 that have submitted adjusted data to the GAB?
19 A I don't know. You know, I would assume that all
20 72 counties would have to go through some type of
21 adjustment. The data the Census Bureau gets is
22 actually data that's given to them by the local
23 officials. Okay. So if -- they would have to do
24 some type of adjustment to it to kind of fit it
25 back into reality. But in the beginning, the data

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1 usually comes from the local officials. If the
2 local officials don't give the Census Bureau data,
3 then the Census Bureau has to find different ways
4 of finding where those municipal boundaries are.
5 Q Were you asked to -- you. Was the LTSB asked to
6 create the maps of the district boundaries that
7 were put into place by Act 43 and Act 44?
8 A Yep.
9 Q When was that done?
10 A The creation of maps?
11 Q Correct.
12 A It would have been as soon as they were enacted
13 and they were published. So we wouldn't release
14 any or produce any maps or post them to the
15 website until after they were enacted and they
16 were actually published. So it would have been
17 sometime in August.
18 Q Those maps that were created, were they created
19 based on the WISE-LR data that existed at the
20 time?
21 A No. I don't believe so. They were built using
22 census blocks. The first release of WISE-LR data
23 was given to all members of legislative leadership
24 on December 5th, I believe. I think so.
25 Q So it was the census -- the census blocks

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1 themselves were the basis for the district
2 boundaries under Act 43 and Act 44?
3 A Yes.
4 Q So the map that would have been drawn would have
5 just been based on the census blocks?
6 A Yes.
7 Q Are the census blocks, the edges of the census
8 blocks or the boundaries of the census blocks, are
9 those now, as things stand today, coterminous with
10 the boundaries of the current WISE-LR dataset?
11 A For the most part, yes.
12 Q And when you say -- what's the caveat to for the
13 most part?
14 A Well, we released WISE-LR in March. Local
15 officials had been using the application for
16 several months, and when the maps were enacted as
17 of, you know, August 14th or whenever it was and
18 they were published, we would have put the
19 Act 43 -- well, I'll just step back.
20 We released WISE-LR sometime at the end of
21 March. Local officials had been using it for
22 quite a while, so if they would have created their
23 wards based on the prior statute, they would have
24 been able to split a municipal block for an
25 annexation or a detachment. So in some cases that

53

1 actually happened. So where a municipality logged
2 into the dataset, they found that the border of
3 let's say Whitewater had changed due to an
4 annexation that occurred on or before April -- it
5 would have been August 1st, 2011, so they would
6 have actually been able to, in the WISE-LR
7 application, select the block, draw the new
8 municipal boundary, and whatever population was in
9 that block would have been divided in WISE-LR
10 based on their estimate of people on one side of
11 the block or the other.
12 So there are some differences to it. Local
13 officials, some local officials had already
14 finished the whole process of local redistricting
15 before the maps were enacted.
16 Q Some municipalities had finished the process
17 before the maps were enacted, correct?
18 A Yep.
19 Q But not all?
20 A Not all, no.
21 Q And really, what I'm trying to figure out is
22 whether the boundaries that are created --
23 legislative district boundaries that are created
24 by Acts 43 and 44 are different than the
25 boundaries that are created or that are in

54

1 existence now under one of these other datasets?
2 A Well, Act 43 and Act 44 are going to follow the
3 WISE-LR dataset almost exactly. I mean, in some
4 rare cases, that were some municipal annexations
5 that were put into the application because some
6 local officials finished earlier than the
7 September 19th date. So, but for 99.9 percent of
8 them, they fit perfectly.
9 Now, the adjusted datasets that you're
10 talking about from local officials, that's up for
11 interpretation because it's -- the municipal
12 boundary -- Main Street is Main Street no matter
13 if it's in this dataset or that dataset. It
14 doesn't matter if Main Street is shifted north or
15 shifted south, it's still Main Street. So if the
16 border of the municipality is Main Street, it's
17 Main Street in the TIGER data and it's Main Street
18 in the local data no matter how it's shifted.
19 Q And now you've just used another term that we saw
20 in the beginning, but you've raised it again now,
21 and that's the TIGER data?
22 A Yes.
23 Q And what is the TIGER data?
24 A TIGER data is the census data. It's -- there's
25 several terms. I mean, census blocks is TIGER.

55

1 Geography is TIGER. Any geography from the U.S.
2 Census Bureau is TIGER.
3 Q So now we've talked about boundaries under these
4 two different datasets.
5 A Yep.
6 Q Now, we haven't -- we've mentioned registered
7 voters. We haven't sort of gone back and talked
8 about any potential impact on registered voters,
9 or at least I haven't intended to do that just at
10 this point yet. That is something that I want to
11 do, but I'd like to first work our way through the
12 rest of the documents that you've provided.
13 A Sure. Absolutely.
14 Q So I want to come back to that.
15 All right. On to paragraph number 8 --
16 actually, with paragraph number 7, let me make
17 sure that I've finished that up. That analysis is
18 the first two pages of Exhibit No. 148 --
19 A Uh-huh.
20 Q -- is that correct? Was there anything else
21 within paragraph number 7 that was -- that's
22 provided on the flash drive, or it was just these
23 two pages?
24 A Just those two pages. Like I said, I -- this --
25 the rest of this document --

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1 Q Exhibit 148 you're talking about?

2 A Right. Pages 2 through 9?

3 Q Uh-huh.

4 A This was an analysis, it must have been done by

5 the GAB, because I don't know what these numbers

6 mean, and I looked at this analysis before, but

7 this is not something we would have done, and I'm

8 not quite sure what it means, and I have no idea

9 why LTSB's name is on this, so.

10 Q That's fine. Well, we have a GAB witness that

11 we're deposing tomorrow, so we can ask him about

12 this.

13 A Okay.

14 Q All right. You can set that to the side then.

15 Turning your attention back to Exhibit No. 146,

16 which is your response.

17 A Yep.

18 Q Paragraph number 8, you state you've included a

19 PowerPoint that was created for Wisconsin

20 Redistricting Road Shows. It shows and explains

21 some improvements and some errors in the U.S.

22 Census Bureau's TIGER datasets?

23 A Yep.

24 Q Just generally speaking, and we don't have the

25 documents in front of us, but what are the

57

1 improvements and errors that you're referring to?

2 A I've seen some -- the Census Bureau went through a

3 major modernization process, back in 2004, where

4 the spatial accuracy of their datasets actually

5 increased quite a bit, or their target for spatial

6 accuracy increased quite a bit. So I've heard a

7 lot of numbers tossed around, I think plus or

8 minus 50 feet or something, but actually it's

9 quite a bit better than that now. It's, and I

10 don't have the document in front of me, but it's,

11 I think it's 7 meters or something to that effect.

12 Q This may be a document -- let me just check my

13 stack of materials that were produced by the GAB.

14 A Actually the number in there isn't correct, so.

15 Q Pardon?

16 A The number in the GAB documents are not correct.

17 They reference plus or minus something, but it's

18 not as -- it's actually more than that.

19 Q I wanted to see if I had that road show document

20 in here that I could mark as an exhibit.

21 A Okay.

22 MR. POLAND: Let me take two

23 minutes, because I think I have it

24 downstairs. Let me go down and grab it.

25 MR. McLEOD: We're going to go off

58

1 the record?

2 MR. POLAND: Yeah, let's go off the

3 record.

4 (Recess)

5 (Exhibit No. 149 marked for

6 identification)

7 By Mr. Poland:

8 Q Mr. Van Der Wielen, I'm handing you a copy of a

9 document that we've marked as Exhibit No. 149.

10 This is going to circle back just a little bit to

11 what we were going over a couple of minutes ago.

12 You were referring to maps, I think, that had been

13 printed out with green-shaded areas. Do you

14 recall that when we were discussing that?

15 A Yep.

16 Q So I'm going to circle back now and try to

17 understand the differences here with respect to

18 Exhibit No. 149. Can you identify Exhibit 149 for

19 me, please?

20 A Well, that's a portion of a map that we produced

21 for the analysis that LTSE, the analysis of

22 WISE-LR and adjusted GAB datasets. That's what it

23 is. Do you want me to explain it?

24 Q Yeah, if you could. Well, I see a number -- so

25 there are a number of different things going on in

59

1 this map, right? So we have some different

2 colored lines, correct?

3 A Uh-huh.

4 Q So I see one line that is a solid red line.

5 A Okay.

6 Q This is in the, I guess it's progressively zoomed

7 in on an area; is that fair to say?

8 A Yep.

9 Q Now, so I'm looking on the bottom half of the

10 page, at the photo there.

11 A Yep.

12 Q And I'm looking at a line that's a solid red line.

13 What is the solid red line?

14 A That is a -- that's the census designation for the

15 town of Harmony.

16 Q So that's where the census depicts the border of

17 the town of Harmony as being?

18 A Yes.

19 Q Then I see another line that is an orange line.

20 What is the orange line?

21 A That is the representation of the town of Harmony

22 by Rock County.

23 Q Then I see another line, it looks like a

24 multicolored line, it looks like it's purple and

25 blue, and there might be another color too in

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1 there. What is that line?

2 A Those are the Act 43 and Act 44 lines.

3 Q So if I'm looking at this correctly, it would

4 appear that, first of all, we've got a

5 discrepancy, if I can use that term, between where

6 the census data and the Rock County data say the

7 town of Harmony boundary is; is that fair to say?

8 A Yeah. That's fair to say.

9 Q All right. And the, what does the green-shaded

10 area attempt to capture?

11 A So the green-shaded areas on the map are the areas

12 of difference between the local -- or the Rock

13 County municipal layer and the, in this case,

14 census-based WISE-LR data, the municipal layer for

15 the census-based WISE-LR dataset.

16 Q And there are a number of black dots up in the

17 green-shaded area, correct?

18 A Yes.

19 Q What do those black dots represent?

20 A Those are the geocoded active registered voters.

21 Q Were you finished with your answer?

22 A Yeah. Yep.

23 Q So from your analysis, you identified, just in

24 Exhibit 149, it would appear -- one, two, three,

25 four, five, six, seven, eight, nine, ten -- 11,

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1 11 voters who lived in this area of difference or

2 discrepancy between town of Harmony boundaries as

3 determined by the census data and by Rock County?

4 A Approximately. I mean, there could be some that

5 are stacked on top of each other, and that's just

6 one of the things that happens when you geocode

7 people. So there may be more.

8 Q Now, I notice that the multicolored lines appear

9 to be over the solid red line --

10 A Uh-huh.

11 Q -- in part, correct?

12 A Yes.

13 Q And then it also -- then also follow the solid --

14 there's a solid blue line on here as well,

15 correct?

16 A Yeah.

17 Q That's a road; is that right?

18 A Those are actually the divisions of census blocks,

19 the blue lines.

20 Q The blue lines are the division of census blocks,

21 okay.

22 A Right. And they do coincide with the roads, the

23 centerline of the road.

24 Q Now, again, if I'm reading this correctly, it

25 would appear that there are approximately two

62

1 voters that are contained within the boundaries of

2 what are identified, on this exhibit at least, as

3 being assembly or congressional district

4 boundaries; is that correct?

5 A I guess, can you say that again?

6 Q Sure.

7 A Can I look at what you're referencing?

8 Q I see two black dots --

9 A Yep.

10 Q -- that are down in the lower right-hand corner,

11 that appear to be located within an area that's

12 identified as being the assembly and congressional

13 district boundaries?

14 A Yep.

15 Q The other dots -- one, two, three, four, five,

16 six, seven, eight -- nine or so, appear to fall

17 outside of that -- of those district boundaries --

18 A Right.

19 Q -- that are depicted on here; is that correct?

20 A Yep.

21 Q So I want to focus on the two that appear to be

22 inside the dotted lines.

23 A Okay.

24 Q Or the multicolored lines. All right. Does the

25 location of those dots either inside or outside of

63

1 those -- the boundaries, the assembly and

2 congressional district boundaries depicted on

3 Exhibit 149, does that have any impact on their

4 district assignments?

5 A I have no idea. The only person that could answer

6 that would be the local clerk or the GAB at this

7 point. That wasn't the analysis that we did.

8 Q Once you had identified these green-shaded areas

9 and the black dots within them, what did you do

10 with that information?

11 A We gave it to leadership.

12 Q That was given to the legislative leadership?

13 A Uh-huh.

14 Q And to the GAB as well?

15 A We, we had a -- once we did the analysis, we met

16 with the GAB to tell them what we found, and

17 basically that's this information, this analysis,

18 which is the first two pages of Exhibit 148 --

19 Q Right.

20 A -- in that we let them know that if -- we let them

21 know that we were going to inform leadership.

22 Q So trying to tie together the map, which is

23 Exhibit 149, together with the first two pages of

24 Exhibit 148 --

25 A Yep.

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1 Q -- which is the analysis, in the second page that
2 you had prepared of Exhibit 148 --
3 A Yep.
4 Q -- the voter selection section, these black dots
5 that are represented on the map, those would have
6 been captured within the first paragraph, voters
7 that are affected by the differences between GAB
8 and WISE-LR data?
9 A Yep.
10 Q What about the second enumerated group, voters
11 affected by differences between GAB and WISE-LR
12 data and in a contiguous different zone?
13 A I believe they would have. I don't know, I would
14 have to look at the data to make sure, but we
15 would have used the -- when we talk about
16 contiguous different zones, we're actually talking
17 about areas of this green that are within 15 feet
18 of a line, so I'm assuming that those two would
19 have been counted in both the -- or in all of
20 them, actually. Those two dots would be
21 represented by all four of those sections.
22 Because there's a congressional line. There is an
23 assembly line. It's within a zone of difference.
24 And that's one of the voters that was geocoded
25 there.

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1 Q But at that point, your role in this analysis,
2 LTSB's role in this analysis ended and you passed
3 that off to GAB?
4 A Yeah, the only thing, we identified the areas, we
5 tried to figure out the scope of what they were
6 talking about, but we have no idea what they would
7 have actually done with anybody who fell into this
8 area.
9 Q And do you know, focusing on those two dots that
10 we had identified, do you know whether those two
11 dots, which represent registered voters, do you
12 know which district they would have been counted
13 as being in under Act 43 and Act 44?
14 A I have no idea. We don't deal with registered
15 voters. We only deal with census population.
16 Q Got it. Okay.
17 A We would have -- in this case, if someone from
18 that house, per se, would have called LTSB and
19 said, I'm trying to figure out what my Act 43 or
20 Act 44 line, what district I would be in, we would
21 have said to call your local clerk.
22 Q All right. All right. Understood. The picture
23 did help.
24 A Okay. Good.
25 Q Helped me at least.

66

1 A Excellent.
2 Q Yes. All right.
3 MR. KELLY: We'll see about that.
4 Q All right. At the next step.
5 A It is, the map actually is a little -- because
6 there are, the two maps up here do show what the
7 census data looks like and then what the local
8 data looks like and then a combination of them
9 both. So it is a little taken out of context, but
10 yes, so I think you had been able to --
11 Q By taken out of context, do you --
12 A It's a little harder to actually interpret this
13 map without seeing the whole picture.
14 Q Yes. Yeah. Understood. All right.
15 Back to Exhibit 146, which is just your
16 enumeration of materials you provided.
17 A Sure. Absolutely.
18 Q Number 8 is the PowerPoint, and I took a quick
19 look at that on the flash drive.
20 A Okay.
21 Q I want to take a look at that myself.
22 A Okay.
23 Q Number, paragraph number 9, I did want to ask you
24 about. We asked the question, we asked you to
25 provide any materials related to estimates or

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1 discussions of the total population of the areas
2 affected by the misalignment of municipal
3 boundaries and legislative and congressional
4 districts and the effects this has had or may have
5 on the respective population of affected or
6 potentially affected legislative and congressional
7 districts. Your response said, "I have nothing
8 for this request. There is no way to estimate the
9 total population affected."
10 A Right.
11 Q I wanted to ask you to explain the second part of
12 that response, "There is no way to estimate the
13 total population affected." Why is that?
14 A There's a lot of factors that go into it. It
15 could be, like we were talking about, the
16 adjustment of those lines would need to happen, so
17 if, you know, if Main Street were here in the
18 census data and Main Street were here, you would
19 assume they were talking about the same
20 Main Street, so there really would be no
21 population affected there, it would just be a
22 shift in the dataset, in two datasets that weren't
23 meant to be overlaid. So that's one reason why.
24 Another reason why is local datasets are not
25 tied to population totals at all. So there's no

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1 way to represent total population by looking at a
2 parcel or by looking at a -- any form of local
3 dataset, that I know of. So the only population
4 totals can be derived from the U.S. Census
5 Bureau's data, and that data would have had to
6 have been, I mean, if you're looking at this
7 dataset laid on top of the other dataset, you
8 would have to intersect thousands of blocks and
9 you would have to figure out, you know, where the
10 population actually was, and that would have to be
11 determined probably by local clerks.

12 But again, I don't think that's the way to
13 look at this. Some of the errors -- or not even
14 errors. Some of the differences between the
15 datasets are pretty nominal, and it's just an
16 interpretation that needs to take effect. So
17 there's no data to estimate population totals. It
18 just can't be done.

19 Q All right. And then paragraph number -- you have
20 given your responses to paragraphs 10 and 11, and
21 I'd like to move on to paragraph number 12 of your
22 response. You've stated, "I have placed two memos
23 that were given to legislative leadership and any
24 related e-mails in this folder," and then you've
25 got two subparagraphs where you identify two

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1 memos. You have a January 3rd, 2012 memo. I'm
2 just going to go ahead and mark that here.

3 MR. POLAND: That's Exhibit 150?

4 THE COURT REPORTER: Uh-huh.

5 (Exhibit No. 150 marked for
6 identification)

7 Q Mr. Van Der Wielen, I'm handing you a document
8 that we've marked as Exhibit No. 150. Is this a
9 copy of the memorandum that you have identified in
10 your response to paragraph 12?

11 A Yep.

12 Q Can you identify this document for the record,
13 please?

14 A It's the memorandum that was created by LTSB and
15 LRB and was given to legislative leadership on
16 January 3rd.

17 Q Did you assist in the preparation of this memo?

18 A Yes.

19 Q Who asked that this memo, Exhibit 150, be prepared
20 or created?

21 A Based on the conversations that we had with
22 Government Accountability Board, they did not
23 inform our legislative leaders of some of the
24 problems they were having, so we did the analysis
25 that we talked about prior, and then we informed

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1 leadership through this memo that there may be
2 some problems.

3 Q All right. I'd like to --

4 A That they're trying to do.

5 Q I'd like to draw your attention to the last two
6 sentences in Exhibit 150.

7 A Uh-huh.

8 Q There is first the statement that says, "GAB will
9 assign every registered voter to a legislative and
10 congressional district." Do you see that
11 statement?

12 A Uh-huh.

13 Q Is it your understanding that as of January 3rd,
14 GAB intended to assign every registered voter to a
15 legislative and congressional district?

16 A I believe so.

17 Q All right. Then the next sentence states, "These
18 may not be the same districts to which the voter
19 was assigned by Acts 43 and 44." Do you see that
20 sentence?

21 A Uh-huh.

22 Q Is it your understanding that GAB in fact has
23 assigned voters to legislative and congressional
24 districts that are now different than the
25 districts that the voters were assigned to under

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1 Acts 43 and 44?

2 A I believe that's the case. I mean, we -- there's
3 a document prior to this that I included questions
4 for the GAB, and to which we outlined very
5 explicit questions to them and they answered that.
6 I don't have that document in front of me, so I
7 can't really answer those questions. It's in the
8 flash drive.

9 Q Do you know which number it was responsive to?

10 A Sure. 6.

11 Q You think you can answer that question better if I
12 put that document in front of you?

13 A If I could, yeah. That would be excellent.

14 Q Yeah, let me do that. Yes.

15 MR. POLAND: Give me two minutes.

16 THE WITNESS: Okay.

17 (Recess)

18 (Exhibit No. 151 marked for
19 identification)

20 Q Mr. Van Der Wielen, just before we took a brief
21 break there, we were talking about Exhibit
22 No. 150 --

23 A Yep.

24 Q -- which is a January 3rd memo, and you referred
25 to questions for the GAB that was a document that

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1 you produced today; is that correct?
2 A Yes.
3 Q I'm handing you a copy of a document that we've
4 marked as Exhibit No. 151, and is that the
5 questions for the GAB document you were talking
6 about a minute ago?
7 A Yes.
8 Q Would you identify that document please?
9 A It's a document we created, questions that we
10 wanted to ask the GAB before we informed
11 leadership. We wanted to make sure that we knew
12 exactly what they were talking about before we --
13 Q Sorry. Just finish.
14 A Oh, no -- before we informed leadership.
15 Q When was Exhibit 151 prepared?
16 A It would have been first week in December,
17 somewhere around there. I don't have the exact
18 date. It would have been prepared for the meeting
19 with the GAB right before we informed leadership.
20 Q Looking at the very first question on Exhibit
21 No. 151 -- actually, before I ask you that
22 question, let me ask you, who actually prepared
23 Exhibit 151?
24 A LTSB. This would have been myself and the --
25 Jeff, my director, and -- it would have been with

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1 the LRB too.
2 Q When you say Jeff --
3 A Jeff Ylvisaker.
4 Q Ylvisaker. I've seen the name written, but I
5 haven't heard it pronounced, so I appreciate that.
6 A Sure.
7 Q Looking at the very first question that you had
8 written down for GAB's staff, the question is,
9 "Will the process dealing with census blocks
10 conflicting with municipal boundaries, documented
11 in the attached memorandum dated November 10th,
12 2011, change assembly or congressional lines
13 outlined in 2011 Wisconsin Acts 43 and 44?
14 Specifically, will it change legislative district
15 population totals?"
16 Now, I'd like to actually break that out and
17 ask that in two parts. The first question that
18 you ask, asks whether assembly or congressional
19 lines outlined in 2011 Wisconsin Acts 43 and 44
20 will change; do you see that?
21 A Uh-huh.
22 Q Did you ever receive an answer to that question?
23 A Yes.
24 Q What was the answer?
25 A Yes.

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1 Q The answer was yes, the lines would change?
2 A Yes.
3 Q Who gave you that answer?
4 A Ross Hein.
5 Q Who is Mr. -- I'm sorry, Hein or Heim?
6 A I think it's Hein.
7 Q Hein? Okay.
8 A I think it's H-e-i-n. There's --
9 Q Who does Mr. Hein work for?
10 A The Government Accountability Board.
11 Q Did Mr. Hein tell you in what way it would change
12 assembly or congressional lines?
13 A No.
14 Q When did you have that conversation or
15 communication with Mr. Hein where he told you that
16 the lines would change?
17 A It was a meeting with the LRB, LTSB, and the
18 Government Accountability Board. I don't know the
19 exact date, but the meeting notice is actually
20 included in the e-mails on the flash drive.
21 Q When did the meeting occur?
22 A Sometime in December, before the holiday. It
23 would have been the first week or two of December.
24 Q The second question that -- actually let me back
25 up. Did you ever see any kind of a representation

75

1 or hear any kind of a representation of how the
2 lines would change?
3 A No.
4 Q Next question, "Specifically, will it change
5 legislative district population totals?"
6 A Uh-huh.
7 Q Do you see that?
8 A Yep.
9 Q Did you ever receive a response to that question?
10 A Yes.
11 Q And what was the response to that question?
12 A Yes.
13 Q Was that for Mr. Hein?
14 A It was -- yes, it was from him specifically.
15 Sarah Whitt was there and also -- I can't remember
16 his name. He would be in the meeting notice too,
17 but it was one of the election administrators, I
18 believe, and David Meyer I believe too.
19 Q Of the LTSB?
20 A Of GAB.
21 Q Or GAB. Getting my acronyms confused here.
22 A Yeah.
23 Q All right. Do you -- were you told how
24 legislative district population totals would
25 change?

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1 A No.
2 Q Did you ever see any kind of a visual
3 representation of how they would change?
4 A No.
5 Q Was LTSB asked to do any additional follow-up on
6 those two questions that you posed?
7 A No. Again, I mean, we identified the difference
8 areas, but we have no idea what they were doing in
9 those areas.
10 Q At that point in time --
11 A So.
12 Q -- you handed it off to the GAB, you had
13 responded, and then from that point on it was
14 GAB's issue to deal with?
15 A Kind of. I mean, we had our own motivation here.
16 It was just to let leadership know the scope of
17 the problem and figure out what was going on. It
18 wasn't really something done for GAB or, it was
19 done to let leadership know that there was a
20 problem, what the scope of the problem was, and
21 just to identify some areas where they may be
22 doing something, but we don't know what they're
23 doing.
24 Q Was Exhibit No. 150, which is the January 3rd
25 memo, was that the communication by which you let

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1 the legislative leadership know --
2 A Yes.
3 Q -- what was going on?
4 A Yep.
5 Q After the point that the January 3rd memorandum
6 was written, did LTSB have any further involvement
7 in trying to determine whether assembly or
8 congressional lines would change and how or
9 whether legislative district population totals
10 would change and how?
11 A No. No. We deal with the census -- since
12 November, we've received over a hundred e-mails
13 trying to correct ward layers, just with technical
14 errors. All those e-mails have been included on
15 the flash drive, with GAB, working with
16 Sarah Whitt and David Meyer and David Grassel,
17 just trying to get data from local officials into
18 their system. But having to deal with any of
19 these things, no.
20 Q Set those two exhibits, 150 and 151 to the side,
21 please.
22 A Okay.
23 Q I'd like to move to Exhibit 146, and the last
24 document that you have identified in paragraph
25 12(b) is a memo that you say seeks to clarify an

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1 inaccuracy in the GAB memo dated
2 January 13th, 2012. Do you see that?
3 A Yep.
4 MR. POLAND: Let's go ahead and
5 mark this document for the record.
6 (Exhibit No. 152 marked for
7 identification)
8 Q Mr. Van Der Wielen, the court reporter has handed
9 you a copy of a document that has been marked as
10 Exhibit 152. Do you have that in front of you?
11 A Yes.
12 Q Is that the document identified in paragraph 12(b)
13 of Exhibit 146?
14 A Yep.
15 Q Now, that refers to a January 13th memo as well,
16 correct?
17 A Yes.
18 Q We've already marked that as an exhibit. Let me
19 get that out here so that we've got that in front
20 of us as well. I'm going to hand you a copy of
21 that.
22 A Sure.
23 Q The staple is a little sharp in the back.
24 A Okay.
25 Q As you can see, the document that I've just handed

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1 to you is marked as Deposition Exhibit No. 80, if
2 you look in the lower right-hand corner of the
3 document; do you see that?
4 A Yep.
5 Q And you'll see that's a memorandum dated
6 January 13th, 2012?
7 A Uh-huh.
8 Q Is that the document that you were referring to in
9 your response to our subpoena?
10 A Yes.
11 Q All right. So we've got the two, we've got the
12 January 23rd memo, and then the January 13th memo
13 in front of us, correct?
14 A Uh-huh.
15 Q Would you please explain to me how the
16 January 23rd memo seeks to clarify an inaccuracy
17 in the January 13th memo?
18 A Well, on page 4 of the GAB memo states that, "In
19 fact, LTSB conducted a limited analysis of 19
20 counties comparing the circumference of municipal
21 boundaries from the WISE-LR maps to the
22 circumference of municipal boundaries in county
23 shapefile maps as they relate to legislative and
24 congressional districts" --
25 Q I'm sorry, where are you reading from?

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1 A I'm sorry. I am reading -- I can read from either
2 document, because we just copied exactly from
3 there, but it would be on page -- 1, 2, 3 -- 4,
4 paragraph -- one, two -- three of the GAB memo
5 dated January 13th.
6 Q So the January 13th memo, we're on page 4, and you
7 said we're in the --
8 A Third paragraph.
9 Q Third paragraph down?
10 A Uh-huh.
11 Q All right. Now, and then in the January 23rd
12 memo, that paragraph is set out?
13 A Yes.
14 Q All right. All right. Great. I'm with you now.
15 All right, please continue.
16 A Sorry.
17 Q That's okay.
18 A All right. So in fact -- the GAB states in the
19 memo, "In fact, the LTSB conducted a limited
20 analysis of 19 counties comparing the
21 circumference of municipal boundaries from the
22 WISE-LR map to the circumference of municipal
23 boundaries in county shapefile maps as they relate
24 to legislative and congressional districts" --
25 Q I'm going to ask you -- sorry, I'm going to ask

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1 you just to slow down a little bit just because
2 the court reporter has to type this --
3 A Oh, I'm sorry.
4 Q -- as you're reading it, so. All right. Please
5 continue.
6 A Sure. All right -- "congressional districts and
7 concluded that 4,204 voters were affected by
8 incorrect municipal boundaries, 1,071 of which
9 likely change assembly districts and 66 of which
10 likely change congressional districts."
11 And again, the memo from the 23rd, we want to
12 clarify that because, "LTSB did perform a limited
13 analysis based on data from GAB but did not
14 conclude that certain voters were affected by
15 incorrect municipal boundaries, nor did LTSB
16 conduct -- conclude that certain voters would
17 likely change assembly or senate district. LTSB
18 only estimated the scope of GAB's reported problem
19 before bringing it to legislative leadership's
20 attention."
21 Q So in other words, if I can summarize, essentially
22 there, what the memo is stating is what you've
23 testified to here today, which is that LTSB's
24 objective, goal, mission, whatever you want to
25 call it, was simply to identify the problem, and

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1 it wasn't to go further and make -- draw
2 conclusions about changes in assembly districts or
3 district lines or boundaries or --
4 A Right.
5 Q -- any of the other conclusions that are
6 attributed to LTSB?
7 A Right. It was just to understand the problem,
8 figure out the scope of what they were reporting,
9 and notify leadership. If this were one or two
10 voters in a very small area, we probably wouldn't
11 have even notified leadership about this. But
12 because of the scope of it, we did.
13 Q Whose decision was it to notify legislative
14 leadership on January 3rd?
15 A I think it was a group decision by LTSB and LRB,
16 Steve Miller and Jeff Ylvisaker.
17 Q Was GAB involved in that decision to inform
18 legislative leadership?
19 A We asked them to, and they asked us to do it.
20 Q Do you know why GAB didn't do that themselves?
21 A I don't know. I --
22 Q Did they ever tell you why they didn't want to --
23 didn't notify legislative leadership?
24 A There was some discussion at the meeting about
25 that, but I think it was just because they had a

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1 lot of other stuff going on and that would have
2 just been another thing that they were dealing
3 with leadership on --
4 Q They've been --
5 A -- that was complicated.
6 Q They've been quite busy lately?
7 A Yes, so.
8 Q Who was at the December meeting that you had with
9 the GAB, who from the GAB was there?
10 A It would be in that e-mail folder with all the
11 recipients, but from my recollection, it was
12 Ross Hein, it was Sarah Whitt, David Meyer, and
13 there was one other gentleman, dark hair, dark
14 curly hair, and I just don't remember his name.
15 Q We'll be able to find it when we look in the files
16 that you provided in the flash drive; is that
17 correct?
18 A Yeah, and I think actually, I thought his name
19 might have been in one of these memos, but --
20 Q Was it potentially one of the lawyers, do you
21 know, one of the staff counsel?
22 A Could have been.
23 Q Shane Falk?
24 A Yeah, that sounds really familiar. Could have
25 been Shane. I think Shane was present at a couple

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1 of those meetings.
 2 Q Had you -- turning to Exhibit No. 80 again, that's
 3 the January 13th memo, is that a document that you
 4 had seen before?
 5 A It is. This was forwarded to me before our
 6 initial meeting with the GAB in November. It was
 7 forwarded to me just a -- I was out sick on
 8 Friday. I think it was forwarded to me the Friday
 9 before the meeting. We had the meeting on Monday.
 10 So it was kind of an afterthought that was
 11 forwarded over to us. So I had limited reading of
 12 it. It goes through lengths of talking about some
 13 things in here that --
 14 Q All right. I'd like to turn your attention to
 15 page 4 of Exhibit 80.
 16 A Okay.
 17 Q And if you look, down toward the bottom of page 4,
 18 you'll see five enumerated paragraphs, 1, 2, 3, 4,
 19 and 5. Do you see those?
 20 A Uh-huh.
 21 Q Has anybody ever told you that those statements
 22 made in those five numbered paragraphs are not
 23 correct?
 24 A I have no idea what they're referencing. I mean,
 25 if you look at these 1,266 registered voters were

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1 placed in the wrong municipality in the WISE-LR
 2 maps, I don't know what that -- I don't know what
 3 analysis they conducted. I don't know how they
 4 did their analysis. I don't know how they
 5 geocoded their voters. I have no idea how they
 6 came up with those numbers.
 7 Q All right. That's fair enough.
 8 A So. So no, I couldn't speak to those numbers at
 9 all.
 10 Q All right. I'd like to draw your attention to
 11 page 5?
 12 A Okay.
 13 Q There is a section, about the middle of the page,
 14 that states Districts Created by Acts 43 and 44
 15 and Conflict With Act 39; do you see that? That
 16 heading? It's a heading, it's a bold heading?
 17 A Yes. I see it.
 18 Q The second paragraph under that section?
 19 A Okay.
 20 Q You see that it states, "After the GAB and/or
 21 local clerks made these" -- "make these
 22 corrections, the districts in SVRS may not match
 23 Acts 43 and 44 precisely." Do you see that?
 24 A Yep.
 25 Q Do you have -- does LTSB have anything to do with

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1 SVRS at all?
 2 A No.
 3 Q The next statement, next sentence reads, "In
 4 addition, these corrections also require splitting
 5 census blocks, which may conflict with Act 39's
 6 prohibition on splitting census blocks." Do you
 7 see that?
 8 A Uh-huh.
 9 Q Did you ever address or encounter the question of
 10 whether splitting census blocks may conflict with
 11 Act 39's prohibition on splitting census blocks?
 12 A Can you say that again?
 13 Q Sure.
 14 MR. POLAND: Actually could you
 15 read the question back.
 16 (Question read)
 17 A Under no circumstance, under any statute, I
 18 believe, and again, I would ask Mike Keane at the
 19 LRB this before I would talk to anybody about
 20 this, but the census blocks are not allowed to be
 21 split at all unless there's an annexation involved
 22 and -- or a detachment, and even Act 39 -- Act 39
 23 actually backed that data up to April 1st, 2010.
 24 So we would have never said it was okay to split a
 25 census block. I mean, only under certain

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1 circumstances that allow it, but -- and the GIS
 2 manager are more technical in nature. I mean, if
 3 the LRB said a community could split a census
 4 block for a certain reason, then they would call
 5 me and I would help them technically get that
 6 done, so.
 7 Q Understood. And then I would like to your
 8 attention to page 7 of Exhibit 80.
 9 A Okay.
 10 Q You'll see a caption or a heading that says GAB
 11 Action Plan; do you see that?
 12 A Uh-huh.
 13 Q And I'd like to draw your attention to the last
 14 sentence of that first big blocked paragraph
 15 there, and that sentence states, "Regardless of
 16 when these corrections occur," open paren,
 17 "pre-spring 2012 election or after," closed paren,
 18 "it is likely that the final districts will not
 19 strictly match those prescribed by Acts 43 and 44
 20 because census blocks were attributed to incorrect
 21 municipalities or voting districts." Do you see
 22 that?
 23 A Yeah.
 24 Q Did you have a conversation with anybody about
 25 that particular conclusion or statement?

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1 A I mean, in general, sure. Yeah, I mean, we've had
2 conversations about that. The -- there's a
3 premise there that I don't agree with that
4 statement per se. I mean --
5 Q And what is it that you don't agree with as a
6 premise?
7 A Census blocks were attributed to incorrect
8 municipal or voting districts. In the context of
9 the census, they weren't. They were attributed
10 correctly by the municipalities. It's only when
11 they're adjusted that they may have -- they may
12 not have matched the municipal or voting
13 districts. It's that process of adjustment that
14 may have -- it's not the census data. They would
15 have been attributed correctly using the WISE-LR
16 data or if someone is using the census data.
17 Q Have you had any discussions with anyone about
18 whether the final districts will not strictly
19 match those prescribed by Acts 43 and 44?
20 A I think that's pretty much a given. I mean, if
21 you think about what GAB is doing, they're
22 gathering datasets that don't follow the census
23 blocks, so in essence, the lines will not strictly
24 match. I don't know how far off they would be. I
25 haven't seen the GAB's data, per se, their final

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1 datasets, so.
2 Q All right. You can set that document to the side.
3 Mr. Van Der Wielen, another document that I know
4 you produced on the materials that you gave to us
5 today --
6 A Uh-huh.
7 (Exhibit No. 153 marked for
8 identification)
9 Q -- appears to be minutes of a meeting from
10 January 14th, 2011.
11 A Okay.
12 Q Can you identify what Exhibit 153, please?
13 A Meeting minutes from the January 14th RSWG.
14 Q What is the Redistricting Staff Working Group or
15 RSWG?
16 A It's a working group that was led by Steve Miller
17 and Jeff Ylvisaker, just to get technical issues
18 out there for the redistricting process. It's a
19 very long and complicating process that requires a
20 lot of planning and a lot of cooperation. So this
21 was, this group was JCLO, and we had asked to
22 create this group, and JCLO I believe had a ballot
23 that said we could create this or that it should
24 be created.
25 Q All right. Now, we're going to be in federal

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1 court in this proceeding, and so we're going to
2 have to explain not only to us lawyers but also to
3 the federal judges, who might not be familiar with
4 the redistricting process in Wisconsin, what --
5 who some of the people are and some of the
6 organizations. When you say we asked for this
7 working group to be created, is that LTSB that
8 asked for it to be created?
9 A Technically -- or the bureaus of the legislature
10 would have asked for this to be created, the LRB
11 and the LTSB.
12 Q We don't have an LRB witness, I think, that will
13 be testifying, so could you please describe what
14 the LRB is just very briefly?
15 A It's the Legislative Reference Bureau. They would
16 have -- they would -- it's a library. They help
17 with bill drafting. They also provide information
18 on current statutes, and they're able to inform
19 legislators of the public or whoever asks.
20 Q Who did LRB and LTSB make a request to that this
21 Redistricting Staff Working Group be convened?
22 A To the JCLO.
23 Q What's the JCLO?
24 A Joint Organization of -- on Legislative
25 Organization. Is that -- JCLO.

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1 MR. McLEOD: Joint Committee on
2 Legislative Operations.
3 A Operations?
4 Q Joint Committee on Legislative Operations?
5 A I believe so.
6 Q Terrific. When was that request made?
7 A Oh, 2009, sometime.
8 Q Was the committee convened at that time, or the
9 working group convened at that time?
10 A All the meeting notes and agendas are online, so I
11 would assume it was sometime in 2009 it started.
12 I don't know the exact date. Somewhere around
13 there.
14 Q How many times had the working group met before
15 January 14th?
16 A Several times. I don't know the exact number. It
17 would have been seven, eight times. It was
18 similar to what we did ten years ago. The same
19 group was formed.
20 Q Similar what, to what was done for redistricting
21 purposes after the 2000 census?
22 A Yep. Prior to the census, we would have wanted
23 this organization to get together.
24 Q This appears to be a bipartisan or group that
25 is -- includes the nonpartisan bureaus and

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1 counsels and also --
2 A Uh-huh.
3 Q -- members of both political parties in the
4 legislature; is that correct?
5 A Yep, absolutely.
6 Q How many times did the working group meet in 2011?
7 A I don't know. At least once.
8 Q Met on January 14th?
9 A Yeah.
10 Q Did you meet at all after that time?
11 A I don't know. It's been a long road, 2011.
12 Q Yeah. Well, back in the 2001 time frame, there
13 was a working group back at that time too; is that
14 correct?
15 A Yep.
16 Q Were you on that working group?
17 A Yes.
18 Q How many times did the working group meet during
19 the redistricting process in 2001?
20 A Probably a little bit more last time. I mean, and
21 that was the first time, I believe, the group had
22 been convened at all.
23 Q Did the working group continue to convene back in
24 2001 until the time that the final districts were
25 proposed?

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1 A I don't know if they did that far. Once local
2 redistricting started, there wasn't a whole lot of
3 meeting. Everybody at that point was just too
4 busy. But there are meeting notes and minutes for
5 the group from 2000 also. They're not included in
6 anything, but.
7 Q We didn't ask for them, so I understand. All
8 right. Great, thanks. You can set that to the
9 side.
10 A Okay.
11 (Exhibit No. 154 marked for
12 identification)
13 Q Mr. Van Der Wielen, I'm handing you a document
14 that's been marked as Exhibit No. 154.
15 A Okay.
16 Q Have you seen Exhibit No. 154 before?
17 A I don't believe so.
18 Q I'd like you to turn to the second page of
19 Exhibit 154, and you'll see that the document,
20 there's a title there in the middle of the page,
21 it says Defendants' Supplement to the Amended
22 Initial Rule 26(a) Disclosures; do you see that?
23 A Yep.
24 Q And your name is identified there; do you see
25 that?

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1 A I see that.
2 Q And if you turn the page, you'll see that there is
3 a reference there to a topic of census data and
4 other information used by others in developing the
5 new redistricting maps, then in parens, 2011
6 Wisconsin Acts 43 and 44, closed paren. Do you
7 see that?
8 A Uh-huh.
9 Q Has anybody talked with you about testifying at
10 the trial of this case?
11 A No.
12 Q You've not been asked to testify at the trial in
13 this case?
14 A No. I -- the only time I ever talked to anybody,
15 they had just said I may be deposed, but that was
16 it.
17 Q You can set that to the side.
18 I'm going to hand you another document that
19 we've marked as an exhibit at a previous
20 deposition. This is Exhibit No. 79.
21 A Okay.
22 Q Have you seen Exhibit No. 79 before, Mr. Van Der
23 Wielen?
24 A Yep.
25 Q When did you see --

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1 A Briefly.
2 Q When did you see Exhibit No. 79 before?
3 A I believe it was right before the meeting that we
4 had with GAB for the first time. It was
5 mid-November.
6 Q Is your understanding that the topics covered in
7 the January 13th memorandum cover the topics in
8 the November 10th memorandum as well, generally
9 speaking?
10 A I would be generally speaking, so. But, sure.
11 Q Did you see -- when you saw the January 13th memo
12 for the first time, did it strike you that there
13 was something that had been raised in your
14 mid-November meeting or in that November 10th memo
15 that wasn't still at issue on January 13th?
16 A I don't know. I really don't, you know, I
17 haven't -- to be quite honest, with the
18 information that they put in these memorandums,
19 they -- some of it I agree with and some of it I
20 don't agree with. So I would have read these
21 documents, but I have not studied them. So I
22 don't know if they're resolving anything in the
23 January 13th memo compared to the November 10th
24 memo or -- so I guess, if it's a specific thing,
25 then --

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1 Q Well, I was just wondering whether -- the
2 January 13th memo, as it's been represented to me,
3 was a little bit more complete thinking coming out
4 of the problems or the issues that were identified
5 in the November 10th memo, and I --
6 A I couldn't speak to that. I don't know. As far
7 as -- I mean, a lot of it, talking about accuracy
8 of TIGER and -- which some things they say are
9 correct and some are not.
10 Q What do they say that you've identified that's not
11 correct, or that you don't believe is correct?
12 A It's not accurate. So it's --
13 Q I have to ask you which document you're in?
14 A So this would be the January 13th document. I
15 believe they reference this several times in other
16 documents as well. The TIGER line shapefile
17 technical documentation, they're referencing that,
18 it says positional accuracy is plus or minus
19 50 feet or 167 feet. I believe that was from the
20 2000 technical documentation. The accuracy has
21 been increased quite a bit through census. They
22 actually don't get some of the credit they
23 deserve. It's gone from plus or minus 50 meters
24 to plus or minus 7.8 meters.
25 Q You're reading there, that's page 3 of the
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1 January 13th memo; is that correct?
2 A Page 3.
3 Q And so the middle of the page, there is a caption
4 that says Accuracy of TIGER and WISE-LR Maps,
5 correct?
6 A Uh-huh.
7 Q And so it's that second full paragraph that you're
8 reading from?
9 A Right.
10 Q So you're saying that the 2010 census TIGER line
11 shapefiles are actual -- TIGER 2010 data are
12 actually more accurate than they're giving you
13 credit for here?
14 A Right. When they measure accuracy of datasets,
15 they measure the most accurate part of the
16 dataset. So plus or minus 50 meters, there may be
17 some locations in the current dataset that are
18 plus or minus 167 feet, but the Census Bureau did
19 try to be a lot more accurate this time around,
20 and it was around 7 or 8 meter accuracy compared
21 to ten years ago where it was plus or minus
22 50 meters or plus or minus 167 feet.
23 That accuracy does depend on the datasets
24 that are given to them, and those datasets would
25 be given to them by local officials. So if they
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1 don't have the data, they don't -- they can't have
2 more accurate data.
3 Q Is there anything else, any other statements that
4 are made in that January 13th memo that you
5 disagree with?
6 A Well, just in general, the census data -- or the
7 collection blocks that are used by the U.S. Census
8 Bureau are statistical areas. They're not meant
9 to be depicted as actual municipal boundaries. I
10 mean, they disclaim that over and over in the
11 census data. So it's, when you're putting
12 together -- everything is tabulated at the census
13 block and then aggregated up. Census blocks would
14 be aggregated up to a municipal line. So the
15 municipal boundaries don't drive the statistics,
16 the blocks do. So some of the premises that they
17 explain in some of these documents aren't
18 necessarily, in my opinion, the correct way of
19 looking at them.
20 Q All right. There were a few other documents that
21 you brought with you today, I wanted to mark these
22 as exhibits.
23 (Exhibit Nos. 155 and 156 marked for
24 identification)
25 Q Mr. Van Der Wielen, I'm handing you copies of
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1 documents we've marked as Exhibits 155 and 156.
2 A Yep.
3 Q I'm going to give these to your counsel here, and
4 then I'll ask you a few questions about them.
5 Let's see, which one is 155?
6 A 155 is Ronald Keith Graddie -- or Gaddie.
7 Q Mr. Van Der Wielen, I've handed you copies of
8 documents.
9 MR. POLAND: Why don't we go off
10 the record for just a second.
11 (Recess)
12 MR. POLAND: We can go back on the
13 record.
14 Q Mr. Van Der Wielen, I've handed you two documents.
15 One has been marked as Exhibit No. 155, and one is
16 Exhibit No. 156. Do you have those in front of
17 you?
18 A Yes.
19 Q Would you identify -- let's start with
20 Exhibit 155. Would you please identify that for
21 the record, please?
22 A It's a document that was created to explain the
23 disclosures -- or explain some data that was given
24 to Ronald Keith Gaddie.
25 Q This is a letter that you sent, correct?
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1 A Yes.
2 Q It doesn't have your signature on it, but it has
3 your name on it, correct?
4 A Yes.
5 Q Dated December 6, 2011?
6 A Yep.
7 Q Do you know who Ronald Keith Gaddie is?
8 A No.
9 Q Who asked you to send Exhibit 155?
10 A I was asked by Marie Lazar.
11 Q Ms. Lazar?
12 A Yeah.
13 Q And then Exhibit No. 156?
14 A Same documents, sent to John Diez.
15 Q So same letter, same date, just going to Mr. Diez,
16 correct?
17 A Yep.
18 Q Do you know who Mr. Diez is?
19 A No idea.
20 Q Ms. Lazar asked you to send that as well?
21 A Yes.
22 Q And the documents or the materials that would have
23 accompanied these letters are identified in the
24 letter itself?
25 A Yep.

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1 Q Were there any other people that you were asked to
2 provide this particular data to by Ms. Lazar?
3 A No. Oh, there was an extra copy that was created,
4 but it wasn't directed towards anybody, I believe.
5 Q All right. And I think I'm going to allow
6 Ms. Lazar to take you through that examination in
7 a few minutes because she knows more about it than
8 I do.
9 A Okay.
10 MR. POLAND: Why don't we go off
11 the record, and give me a couple minutes
12 here, and I might be done.
13 (Recess)
14 MS. LAZAR: Mr. Van Der Wielen, I'm
15 Maria Lazar with the attorney general's
16 office. I'm just going to ask you a few
17 follow-up questions.
18
19 EXAMINATION
20 By Ms. Lazar:
21 Q We're going to start out with just, if you can
22 look at your Exhibit -- now I don't have it in
23 front of me. Yes, I do. It's Exhibit 146. And
24 if you can also pull up Exhibit 155. So we're
25 looking at 146 and 155. I just want to clarify

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1 some of the document production that we did.
2 A Yeah.
3 Q Exhibit 155 and 156 consist of letters that were
4 written that describe documents that were sent to
5 certain individuals; is that correct?
6 A Yes.
7 Q And those documents were sent from the LTSB's
8 files; is that correct?
9 A Yes.
10 Q And the procedure was that certain documents were
11 requested by our office and other parties in this
12 case; is that correct?
13 A Yes.
14 Q Now, the three items, the three files that you put
15 on the flash drives are listed there on
16 Exhibits 155 and 156, correct?
17 A Yep.
18 Q And next, the 2010 census data, correct?
19 A Yes.
20 Q Now, if you look at 156, do some of the things
21 that you have on the flash drive today that you
22 produced also match the things you gave on the
23 flash drives with 155 and 156?
24 A Yes.
25 Q And where would they be, what file?

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1 A The Statewide 10 folders. They would be under
2 folder 1.
3 Q Okay. So all of the items in 155 and 156 are in
4 item 1?
5 A Not all of them.
6 Q Okay. Are they elsewhere on the --
7 A No.
8 Q Okay.
9 A So the only thing that would match would be the
10 Statewide 10 folders.
11 Q Okay.
12 A We would not have, as part of this, as part of
13 Exhibit 147, we would not have included a block
14 assignment file for Wisconsin Act 43, amended,
15 senate and assembly, and we did not include a ward
16 file from WISE-LR.
17 Q So what you did include was number 2 on 155 and
18 156?
19 A Yes.
20 Q All right. And that information was placed inside
21 envelopes that you sealed and signed?
22 A Yes.
23 Q And two of the three flash drives were provided to
24 the individuals in these letters, Diez and Gaddie?
25 A Right.

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1 Q And the third was just in an envelope that was
2 signed?
3 A Yes.
4 Q Thank you. Okay.
5 All right. Previously you testified
6 regarding -- let's look at Exhibit 151, which
7 is -- those are your questions that you had for
8 the Government Accountability Board at a meeting
9 that occurred I believe in December?
10 A Yes.
11 Q Did LTSB do any analysis as to whether or not the
12 GAB was assigning voters to other legislative
13 districts?
14 A No.
15 Q Do you know if that's exactly what GAB was doing?
16 A I have no idea. I -- they told us the areas that
17 may be affected by what they were doing, but they
18 didn't tell us exactly what they were doing with
19 those people.
20 Q So what you do know, what you can take away from
21 that meeting was what GAB told you that they were
22 doing, but you don't know if they actually were
23 doing that?
24 A Right.
25 Q Now, in the next memo that you wrote -- or not you

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1 wrote, the next memo that the head of LRB and LTSB
2 sent to legislative leaders --
3 A Right.
4 Q -- that was based upon discussions that you had at
5 this meeting; is that correct?
6 A Yes.
7 Q And were Steve Miller or Jeff Ylvisaker at that
8 meeting?
9 A Yes.
10 Q So they were at the December meeting?
11 A Yep.
12 Q And this letter was sent, and I hope I'm not
13 misquoting you, you said was because GAB did not
14 send something to the legislative leaders, so you
15 wanted to do this?
16 A We -- yeah. After we knew what was going on and
17 understood the scope of it, if they weren't going
18 to notify them, we felt we should.
19 Q And that was more of a concern over what GAB had
20 said they were doing?
21 A Yes.
22 Q You also mentioned that, you talk about TIGER
23 lines in some of these memos, and you describe
24 what TIGER lines are. Are TIGER lines the actual
25 census lines, or what are TIGER lines?

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1 A TIGER is the geographic database for the
2 Census Bureau. It's Topologically Integrated
3 Geographic Referencing Encoding System. It's an
4 acronym.
5 Q Is some of the --
6 A Something along those lines.
7 Q Is some of the concern coming because, as you put
8 it, and I don't know what two things you said, you
9 said census data and you described local data, and
10 you said they all exist in their separate worlds?
11 A Yes.
12 Q And is some of the problem that we're overlaying
13 the two of those together when they shouldn't be?
14 A Yes.
15 Q And that's causing this issue?
16 A Yes.
17 Q And for example, there was a mention of geocodes
18 putting people off the coast of Africa. Do you
19 know why that's caused?
20 A Absolutely.
21 Q And why is that caused?
22 A It's error.
23 Q By whom?
24 A The person doing the geocoding.
25 Q So the local clerk typing in a wrong number?

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1 A That could be one of the forms of error. It could
2 be an address that isn't found in the underlying
3 dataset, they're using the geocode. It could be
4 just the user doing something wrong as far as the
5 geocoding is concerned. It could be the actual
6 geocoder encountering an error. Geocoding is done
7 basically using algorithms, and if the algorithm
8 doesn't like what you put in, the result you get
9 is not very good, so. 00 is off the coast of
10 Africa.
11 Q So that could be a typing error by a clerk?
12 A Could have been a typing error. It could have
13 been a problem with the geocoding system that
14 they're using. It could be a various -- there are
15 various factors in geocoding that you need to look
16 for when you're doing it. And an error could
17 result in a 00 geocode, which would put someone
18 off the coast of Africa.
19 Q And when you start out, you use the, you being
20 LTSB, you use the census data, correct?
21 A Use census data.
22 Q And there's a presumption that that census data is
23 accurate, correct?
24 A Yes.
25 Q You also mentioned that you were involved in

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1 redistricting in 2001 and 2002. What did you, not
2 LTSB, but you do in 2001, 2002, regarding
3 redistricting?
4 A I was in the same role. So we developed -- we
5 helped local officials through the WISE-LR
6 application collect municipal ward boundaries,
7 develop the applications. We provided hardware,
8 software and technical support to the legislature,
9 as far as setting up redistricting systems and --
10 for the legislative redistricting. I was also a
11 technical advisor to the eastern district federal
12 court as part of the 2002 case.
13 Q And what do you mean by that?
14 A They asked me to advise -- be a technical advisor
15 to the court, so I would supply them with the same
16 hardware and software that was used for
17 legislative redistricting here, and then also
18 answer any questions or be as helpful as I could
19 to the judges and their staff.
20 MS. LAZAR: I have no further
21 questions.
22 MR. POLAND: Just a couple of
23 questions.
24
25

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1 RE-EXAMINATION
2 By Mr. Poland:
3 Q I can't remember where I saw it, but I thought I
4 saw a reference in a memo someplace that there
5 were -- that the -- putting -- the problem with
6 putting people off the coast of Africa was a
7 result of having voters assigned to a -- as close
8 as possible to the Prime Meridian?
9 A Uh-huh. Equator.
10 Q That they couldn't identify an address for them.
11 Am I not recalling that correctly, or do you
12 recall anything about that?
13 A 00 is, yeah, so it would be the Prime Meridian and
14 the equator. I don't know. I've never seen that
15 in any reference document. But it's pretty
16 standard, I mean, if you -- the process of
17 geocoding that we would normally follow, if you're
18 geocoding, you need to geocode with the correct
19 data, and the correct data in this case would
20 probably be the TIGER data. They have a set of
21 data that you can use for geocoding with TIGER.
22 It's their street files, and their street files
23 are aligned to their municipal boundaries and to
24 their blocks, so that if you're using the TIGER
25 geocoder with the TIGER data, you're going to get

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1 pretty good results. If you're using different
2 underlying data, if you're using Bing Maps or
3 using some other proprietary software to do the
4 geocoding, you may get results that you don't
5 expect. You may get people showing up in the
6 wrong areas. That's --
7 Q Follow-up question also on that, just on the
8 2000 -- the redistricting this time around versus
9 after the decennial census in 2000. Is the
10 process, from LTSB's standpoint, more complicated
11 or complex this time than it was in 2000?
12 A They're both mountains we had to climb. I mean,
13 they're just, it's a huge effort to collect data.
14 I don't know if it's anymore complex than it was
15 ten years ago. There are some -- the complexity
16 may come in, with the GAB, in regards to the GAB,
17 just helping them get the data into the SVRS
18 system or helping them -- or supplying them with
19 data that needs to go into SVRS. I mean, that is
20 complicated thing that we didn't deal with ten
21 years ago because it was pretty much handled by
22 the local officials.
23 Q So what was the difference -- what was handled by
24 local officials versus what's being done in 2011?
25 A Corrections. I mean, if the data didn't align,

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1 they had to administer an election and they had to
2 make sure people voted in the right spot. So if
3 there was, you know, if a census line intersected
4 a parcel, they would have to make some type of
5 determination where that person voted, either in,
6 you know, district 1 or district 2. Because most
7 local officials, their datasets that they're
8 really concerned about are parcels, your
9 individual piece of land and where you're assigned
10 to a school district or to a congressional
11 district or an assembly district or to an alderman
12 district or any other district. So, and when they
13 group those together, they do that at the local
14 level.
15 Q So in 2001, if that redistricting corrections or
16 discrepancies were made at the -- or accounted for
17 at the local level; is that correct?
18 A Right.
19 Q And that's not what's happening with this
20 redistricting?
21 A It's a little bit different this time around. The
22 data is -- we're collecting data. It's public
23 dataset. GAB asked for it, and we give it to the
24 GAB. They implement their -- it into their SVRS
25 system, they've encountered some technical

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difficulties. We try to help them through that as much as we can. But that process does complicate things quite a bit. I mean, it's, especially when stuff like this occurs, they are fairly new to GIS, so it's -- some of the errors and technical problems that you see would have probably been handled at the local level and just not, you know, brought to light in these means. So it would have just been handled at the local level and everybody move forward. So it's.

MR. POLAND: Thank you. I don't have any further questions.

MS. LAZAR: No further.

(Adjourning at 12 o'clock p.m.)

employed by the parties hereto or financially
interested in the action.

In witness whereof I have hereunto set my hand and affixed my notarial seal this 13th day of February 2012.

Notary Public, State of Wisconsin
Registered Professional Reporter

My commission expires
July 15, 2012

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STATE OF WISCONSIN)

) SS.

COUNTY OF DANE)

I, SARAH FINLEY PELLETTER, a Registered Professional Reporter and Notary Public duly commissioned and qualified in and for the State of Wisconsin, do hereby certify that pursuant to subpoena, there came before me on the 7th day of February 2012, at 9:17 in the forenoon, at the offices of Godfrey & Kahn, S.C., Attorneys at Law, One East Main Street, in the City of Madison, County of Dane, and State of Wisconsin, the following named person, to wit: TONY J. VAN DER WIELEN, who was by me duly sworn to testify to the truth and nothing but the truth of his knowledge touching and concerning the matters in controversy in this cause; that he was thereupon carefully examined upon his oath and his examination reduced to typewriting with computer-aided transcription; that the deposition is a true record of the testimony given by the witness; and that reading and signing was not waived.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken and further that I am not a relative or employee of any attorney or counsel

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